

# Falling Through the Cracks

ASYLUM PROCEDURES  
AND RECEPTION CONDITIONS  
FOR TORTURE VICTIMS  
IN THE EUROPEAN UNION



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The International Rehabilitation Council for Torture Victims (IRCT) is an independent, international health-based human rights organisation which promotes and supports the rehabilitation of torture victims, promotes access to justice and works for the prevention of torture worldwide. **The vision of the IRCT is a world without torture.**

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## The work of the IRCT

As a network of 153 torture rehabilitation centres across 76 countries, the IRCT is the world's largest membership-based civil society organisation working in the field of torture rehabilitation and prevention. Its key distinctive feature lies in a holistic health-based approach to torture rehabilitation. In addition, the organisation defines itself as private, non-partisan, and not-for-profit, as well as being governed by democratic structures.

The IRCT's diverse membership shares three common characteristics: **each member is a legally independent organisation that is rooted in civil society; each provides services to at least 50 torture victims annually; and each is committed to sharing its experiences throughout the IRCT and beyond.** IRCT member centres stem from all regions of the world. Given the very nature of the organisation, some of these centres may be newly established, small or fragile from an organisational perspective, while others have long trajectories of public service, appropriate budgets and solid funding structures. Together the movement is effective in fighting torture across the globe. The core strength of the movement stems from a triad of values: Solidarity, Equality and Democracy.

The member centres participating in this report are all based in the European Union (EU) and offer a range of services for asylum seekers and refugees. These holistic rehabilitation services include medical, psychological, legal and social support to asylum seekers. Holistic support is essential for asylum seekers, in order to help them address the multi-faceted problems they may face as a result of past traumatic experiences and the post-migration situation in their host country.

**IRCT's  
Network:**

153  
ORGANISATIONS

/ 76  
COUNTRIES

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### Cover Photograph

Refugees from Syria, hoping to get on the next train at the main station in Munich.  
© Jazzmany | Shutterstock

# SUMMARY

In 2015, a record 1.2 million refugees applied for asylum in the EU, most of them fleeing from torture, violent conflict, persecution and repressive regimes in the Middle East, Asia and Africa.<sup>1</sup> This unprecedented number of asylum seekers presents a serious challenge for European governments and their asylum authorities, who have been ill prepared to receive and support the vast numbers of people arriving.

In this context, torture victims are not receiving the specialised support they need to get better and to engage effectively with the asylum process. One reason for this is that most EU Member States, including the eight countries featured in this report, do not have a procedure for systematic identification of torture victims in the asylum procedure. This key issue has a range of negative consequences on the individual, such as deteriorating physical and mental health and flawed consideration of their asylum claim. Without identification, there is no referral to much needed torture rehabilitation services and victims risk being placed in immigration detention. This seriously jeopardises the physical and mental health situation of victims and that of their families, who find themselves in an extremely vulnerable situation.

In the refugee status determination, this lack of identification means that crucial physical and psychological evidence of torture to support torture victims' asylum claims is not collected. As a consequence, torture victims are at risk of being put through inflexible processes that are not suited to assess the protection claims of those suffering from torture traumatised.

Numerous studies have shown that refugees who have experienced torture are particularly susceptible to mental health problems, such as post-traumatic stress syndrome (PTSD), anxiety, suicidal thoughts and depression.<sup>2,3</sup> This affects all areas of a person's life, their family's life and their community. For many clients of IRCT member centres, torture trauma leads to intense feelings of disassociation, disorientation and isolation, compounded by the stress of experiencing long periods of uncertainty. They urgently need rehabilitation and to be able to live in safety. It is clear that many torture victims have strong cases for asylum, yet without being identified and receiving adequate support during and after the asylum process they struggle to effectively present their case.

## No identification - no support to torture victims

Since July 2015, EU Member States have been under legal obligations to identify and support torture victims who apply for asylum. This includes specific obligations to provide torture victims with adequate reception conditions, special procedural guarantees, the possibility of having their torture claims documented and treatment for the damage caused by torture.

“The authorities have been totally overwhelmed by the numbers of people arriving. If it wasn't for civil society and NGOs, the entire system would have collapsed.”

— Paul Schwarzl

Zebra Intercultural Centre, Austria

# 1,255,600

asylum applicants in Europe in 2015

This report is based on information collected with nine IRCT torture rehabilitation centres from eight countries in the EU. Their experiences indicate that despite the introduction of clear region-wide obligations, torture victims continue to fall through shortcomings in implementation at the national and local level, combined with flaws in the design of the current system.<sup>4</sup>

The IRCT member centres in this report state that procedures by asylum authorities to identify torture victims are either highly flawed or do not exist at all. The only screening that is systematically carried out focuses on identifying communicable diseases, rather than assessing the broader health needs of the individual person. Identification is the key that unlocks the door to a set of special support measures, which torture victims are entitled to and need. Without systematic identification, victims depend on the goodwill and awareness of individual case workers and support from non-governmental organisations (NGOs) to access rehabilitation and have a fair determination of their asylum claim.

The member centres also reported that in their countries many torture victims are left to deal with their trauma alone. Torture trauma can make it extremely difficult to function in society, with victims suffering from panic attacks, mistrust, flashbacks, chronic depression and paranoia.

Torture victims therefore struggle throughout the asylum process. They are unable to work and find it difficult to maintain and develop relationships with others because they cannot trust them or prefer to be alone. This trauma has a knock on effect, as it is passed on to their immediate family, affecting their children's education and ability to integrate socially. Torture trauma rarely fades over time and is actually often exacerbated if left untreated, especially when the victim lives in a state of uncertainty and in poor asylum conditions.

## Barriers to rehabilitation

Rehabilitation services do exist throughout the EU but victims often do not receive support due to:

- **Legislative or administrative barriers to access such as legal restrictions on the type of health care provided to refugees and asylum seekers or requirements to obtain permits for medical treatment**
- **Insufficient capacity of specialised rehabilitation services due to lack of funding and insufficient numbers of health professionals with specialised knowledge about rehabilitation of torture victims**

Several IRCT members report that their governments restrict the type of medical treatment available to asylum seekers to emergency medical needs, a category which often does not cover the type of rehabilitation interventions torture victims need. IRCT member centres have experienced a significant increase in victims seeking rehabilitation, but because funding has decreased or stagnated, victims have to wait for long periods - 12 months in some countries - before they are able to access treatment.

Obtaining refugee status can provide victims with the safety and stability, which is key to successful rehabilitation. However, member centres reported that again due to the lack of identification, victims are often put at a double disadvantage in their pursuit of international protection. Firstly, they cannot access a medico-legal assessment of their torture claims, which can be a crucial piece of evidence in the asylum process.

© Swedish Red Cross, Ola Torkelsson



Secondly, a credibility assessment remains the main tool for determining asylum claims despite ample proof that torture victims suffering from PTSD are unable to accurately recount their experiences in a consistent way over time. This often sees them determined to be unreliable or not credible.

As a result, torture victims with valid protection claims risk being returned to countries where there is no rehabilitation support and where they are at risk of being tortured again.

### Learning lessons from the past

European countries have extensive experience in successfully receiving and rehabilitating torture victims from other countries. In the 1970s and 1980s, more than a million people from Latin America fled the brutal military dictatorships in the region and some found safety in European countries. Many had harrowing experiences of torture and found refuge and rehabilitation support through IRCT members, who were able to offer them holistic and individually tailored treatment.

This experience has demonstrated that rehabilitation can help victims rebuild a life after torture and become active members of society in their host countries. Since then, IRCT members and other rehabilitation providers in Europe have provided rehabilitation to refugee torture victims from all over the world, including from the Balkans, Iraq and Afghanistan, and helped them integrate in and rebuild their lives in European society.<sup>5</sup>

**European governments need to learn from this experience and the existing expert capacity in their countries and prioritise the establishment or improvement of identification systems that effectively identify torture victims and other vulnerable groups as early as possible. Following identification, they should ensure that:**

- Victims have access to holistic rehabilitation services and these services are adequately funded
- Victims are not placed in immigration detention
- Victims have access to a full medico-legal examination of their torture allegations free of charge – in accordance with the Istanbul Protocol
- Victims' vulnerability and possible psychological traumatisation is taken into account when developing refugee status determination processes

#### NOTE

The Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment – commonly known as the Istanbul Protocol – establishes internationally recognised standards and principles for the investigation and documentation of allegations of torture and ill-treatment.

It provides guidance for health professionals on how to recognise and document symptoms of torture to serve as valid evidence in court and in asylum proceedings. Its adoption by the United Nations in 1999 gives it global authority as an instrument that should be used to guide standards for the documentation and investigation of torture. By detailing the process of documenting medico-legal evidence, the Istanbul Protocol's key objective is to ensure scientific and multi-disciplinary assessment of credible evidence in order to contribute to achieving justice and to the fight against impunity in cases of torture and other ill-treatment.

# METHODOLOGY

**This report is based on information collected by nine IRCT member centres in the EU. It details the experiences of member centres regarding how individual EU countries receive, process and support torture victims among asylum seekers. The information collected was structured on the basis of key Member State obligations contained in the Asylum Procedures Directive and the Reception Conditions Directive. These are:**

- Identification of torture victims
- Special guarantees for torture victims in asylum procedures
- Adequate standards of living
- Treatment and healthcare for torture victims
- Access to medico-legal documentation of torture claims

The report exclusively examines the situation of torture victims, which is the main group serviced by all participating IRCT members.

The objective of this report is to inform policy decisions at the EU, National and Sub-national level, and to promote improved standards in asylum procedures and reception conditions to guarantee the wellbeing of torture victims. To that end, this report will:

1. Examine IRCT members' experience with treatment of torture victims in asylum procedures and to assess their material reception conditions.
2. Examine whether, the experience of IRCT members, the provisions for torture victims in the two directives are properly implemented.
3. Examine whether the provisions for torture victims in the two directives are adequate to meet the needs of torture victims.

## NOTE

The International Rehabilitation Council for Torture Victims (IRCT) is the world's largest membership organisation that supports the health-based rehabilitation of torture victims.

With 153 independent organisations in 76 countries, the IRCT's members are the focal point for the work of the organisation. Member centres provide expert knowledge and experience of working with torture victims in diverse environments.

IRCT member centres in the EU work to ensure that torture victims have access to individually tailored and health-based rehabilitation services. To that end, they offer a range of holistic services including medical, psychological, legal and social support to torture victims.

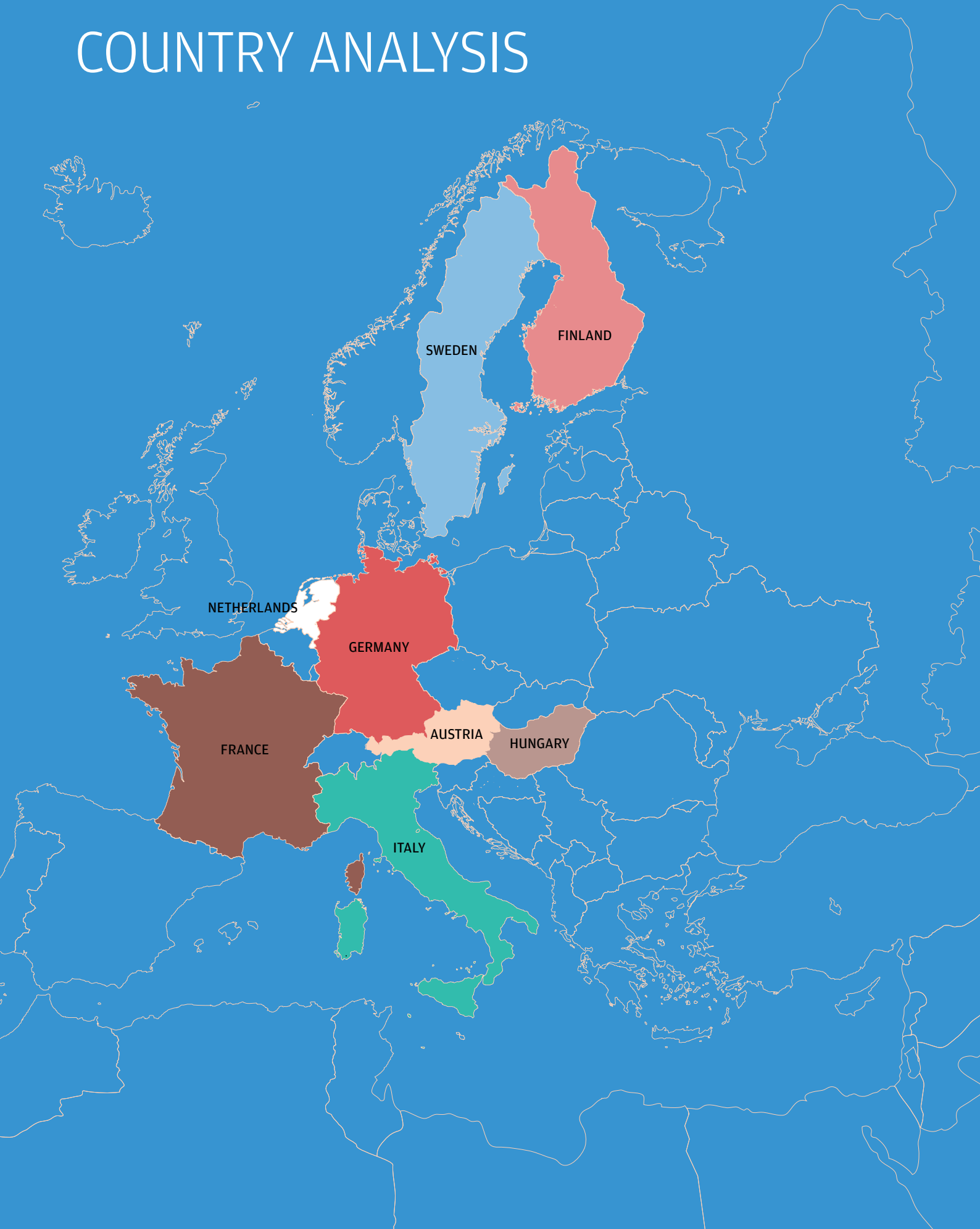


## The following IRCT member centres participated in this report

EU Member State	IRCT Member Centre
Austria	Zebra Intercultural Centre for Counselling and Psychotherapy
Finland	Centre for Torture Survivors in Finland
France	Parcours d'Exil
Germany	Berlin Center for the Treatment of Torture Victims (bzfo) Medical Care Service for Refugees Bochum (MFH Bochum)
Hungary	Cordelia Foundation
Italy	Italian Council for Refugees
Netherlands	Psychotrauma Centrum Zuid Nederland (RvA NL)
Sweden	The Red Cross Treatment Centre for Persons Affected by Torture and War



# COUNTRY ANALYSIS



# AUSTRIA

**IRCT member centre Zebra reports that Austrian authorities were not prepared to handle the current refugee crisis. In 2015 the country received one of the highest shares of asylum applications as a proportion of its population, with over 85,000 claims.**

Many refugees are housed in inappropriate and overcrowded emergency shelters, asylum applications are left undecided for months and in many instances, basic needs are not met. In this context, torture victims are not receiving the rehabilitation and legal support to which they are entitled. While torture rehabilitation centres have stepped in to provide support and treatment, they have not been able to meet the growing demand due to restricted capacity and a lack of adequate support from the government. In September 2015, the European Commission brought forth infringement proceedings against Austria for failing to properly transpose the Reception Conditions Directive.

## ABOUT **Zebra Intercultural Centre for Counselling and Psychotherapy (ZEBRA)**

Zebra was founded in 1986 in Graz, Austria and began its work in earnest in 1987. Zebra supports people that have fled their home countries and works to rehabilitate victims of torture and ill-treatment. Among other services, Zebra offers information and advice on legal issues, assistance in the contacts with authorities and provides therapy to victims of torture and persons traumatised during war. Zebra offers legal advice to asylum seekers throughout the asylum procedures, physiotherapeutic treatment, family counselling and information and advice on education and employment.

**Protest rally by local residents against the construction of refugee shelters located in a residential area at Kirchner barracks in Graz.**

© Johanna Poetsch



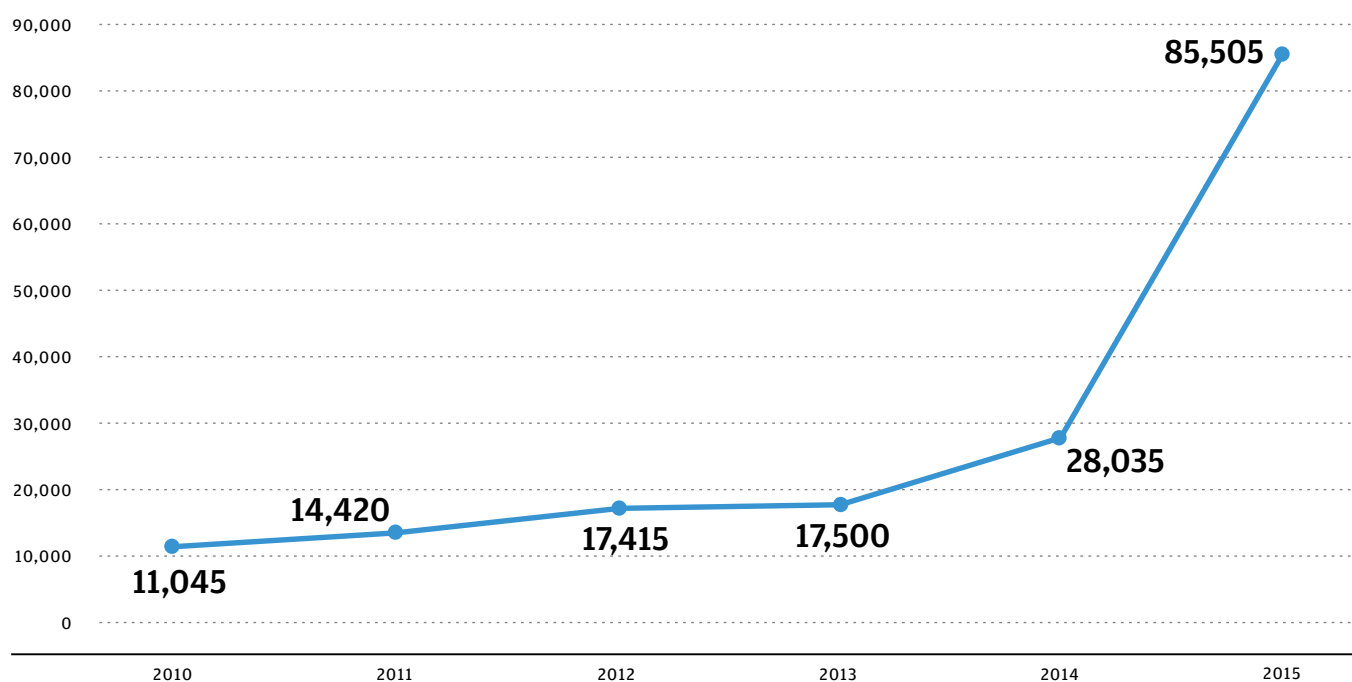
In the experience of Zebra, a key problem is the lack of a procedure or mechanism to ensure the systematic identification of torture victims in Austria. During the initial screening interview, typically conducted by the police, questions about torture are generally not raised. During the second, substantive interview conducted by the Federal Agency for Immigration and Asylum in Austria, the case-worker may or may not choose to ask questions about torture. Even if the asylum seeker states that he or she has been tortured, the person is not automatically referred to specialised support measures concerning asylum procedures, housing or healthcare.

This means that the first point of contact for many asylum seekers is now the police station, where they can claim asylum and have their initial interview. However, the police do not have the required knowledge or training to work with vulnerable asylum seekers, which means that they are less likely to identify signs of torture and ill-treatment and refer potential victims for further examination and care. In Zebra’s experience, authorities working with torture victims do not receive appropriate training. In the past Zebra provided authorities with special training on how to engage with torture victims but due to shifting priorities as a result of the recent influx, this is no longer the case.

Vulnerable asylum seekers are not provided with a medical examination, despite explicit state obligations to do so in the Asylum Procedures Directive. Part of the problem is the Amended Aliens Law of July 2015. In the past, large reception facilities would serve as a first point of contact for all asylum seekers where the authorities could triage individual applicants. The initial interview and a medical examination would take place here. However, the amended law has limited the number of these large reception facilities and introduced more reception centres of smaller sizes and capacity.

**In September 2015, the European Commission brought forth infringement proceedings against Austria for failing to properly transpose the Reception Conditions Directive.**

### Asylum applications in Austria, 2010 - 2015



Procedurally, there have also been challenges in the asylum process, particularly due to long asylum procedures and with respect to access to medico-legal reports (MLRs) for torture victims. According to the asylum authorities, asylum seekers wait seven months between their initial interview at the police station and their substantive asylum interview with the authorities. However, in the experience of Zebra, most people wait for at least a year and cannot work during this time.<sup>6</sup> This long period of idleness and uncertainty causes significant anxiety and stress for clients of Zebra, particularly if their families remain in conflict zones.

Zebra provides MLRs for torture victims to have their torture claims documented for the asylum procedure. However, there is currently no specific administrative procedure, which automatically requires the case owner to request an MLR where asylum seekers allege or otherwise show signs of torture and ill-treatment. As such, even if an asylum seeker mentions past torture there is no guarantee of an evaluation.

According to Zebra, this lack of systematised identification and referral procedures also affects victims' access to rehabilitation services. Most victims received by Zebra are not referred from the Federal Agency for Immigration but rather through social workers, volunteers, other NGOs, lawyers or even family members. Those that do get referred often experience waiting lists of up to one year. Zebra and a few other NGOs are the only providers of specialised rehabilitation services in Austria and the current demand far exceeds their capacity. For most torture victims, this waiting period significantly complicates the provision of adequate rehabilitation services.

All new Zebra clients see a staff member within two weeks of contacting the organisation. This initial interview serves as a triage point and the client will also see a therapist. If the therapist decides that the individual is acutely in need of care, then the person will be placed on a priority list. This situation is directly linked to funding, as the Austrian state has not increased funds to NGOs despite the significant surge in demand for services. Adequate funding would allow Zebra to provide better care to their clients as they could shorten waiting lists and see clients more regularly. Funding would also be beneficial for internal and external capacity building, such as for producing MLRs and training NGO staff working with torture victims.

In addition to the absence of identification procedures and the barriers to rehabilitation services, reception facilities also negatively impact the wellbeing of torture victims. At the beginning of the refugee crisis, reception facilities were the most widely publicised failure of the situation in Austria. Domestic and international public opinion was outraged by the terrible conditions in the large refugee camps, particularly in Traiskirchen. As a response to the influx of people, Austrian authorities set up various emergency accommodation facilities to provide temporary residence for those transiting through Austria to claim asylum elsewhere. Due to the shortage of housing facilities, these were gradually also used to house people who have applied for asylum in Austria on a longer-term basis. Since these facilities were only intended for a short-term stay, they were inadequate for long-term residence, and in the opinion of Zebra, are certainly not conducive to the mental and physical wellbeing of torture victims.

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“We had some of these large refugee camps in Styria and the conditions were not at all good. Well below what we would consider adequate standards.”

– Alexandra Köck

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The facilities were overcrowded and housed those at all stages of the asylum process. Many people were unsure of how long they would remain in the centres and of what would happen from one day to the next. This uncertainty caused considerable anxiety among torture victims and was a real barrier to their rehabilitation process. Furthermore, the overcrowded nature of these facilities meant that there was a lack of privacy for individual asylum seekers. This is particularly worrying as people from all kinds of backgrounds, including unaccompanied minors, families with young children, single men and women are housed there.

As governments across Europe began closing borders and restricting access to asylum in 2016, the Balkans route was effectively closed off, which stemmed the influx of refugees to Austria. As a result, the large-scale emergency and transit facilities in Styria were closed and asylum seekers were either moved on to other destinations in Europe or distributed throughout the regions of Austria.

Asylum seekers are now housed in large apartment blocks or former hotel buildings, normally run by private firms, contracted by the Austrian authorities. Zebra clients still report many challenges related to the conditions in these overcrowded apartment blocks, including poor infrastructure (particularly in rural areas), lack of access to medical staff and lack of privacy. For instance, one client lives in a small room with his wife and three young children. Their door does not shut and they share a bathroom with other asylum seekers. The client is deeply concerned about the safety of his young children, particularly if they needed to use the bathroom late at night.

It is important to note that the situation can vary from region to region and also between service providers. Housing provided by NGOs may be of a higher standard than that provided in motels. The location of housing also plays a large role in the ability of asylum seekers to integrate and their path to rehabilitation. If people live near a city, they generally have greater access to language classes, work, therapy sessions and medical treatment.

Further amendments to the Austrian Aliens Law came into effect in June 2016, which imposes additional restrictions to benefits for refugees and asylum seekers and limits access to asylum. The waiting time for family reunification has been increased to three years for people with subsidiary protection, which is particularly disconcerting for torture victims whose families remain in war zones or in other perilous circumstances. Furthermore, the residence permit for refugee status has been reduced to three years, with the possibility of renewal pending review of the individual circumstances. This further adds to the uncertainty of many vulnerable persons.

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“We are very worried about the most recent set of amendments and fear that it could make a difficult situation even worse for traumatised asylum seekers.”

– Paul Schwarzl

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# FINLAND

**Finland experienced a near tenfold increase in asylum applications from 2014 to 2015, placing considerable strain on an asylum system accustomed to handling far fewer applications.**

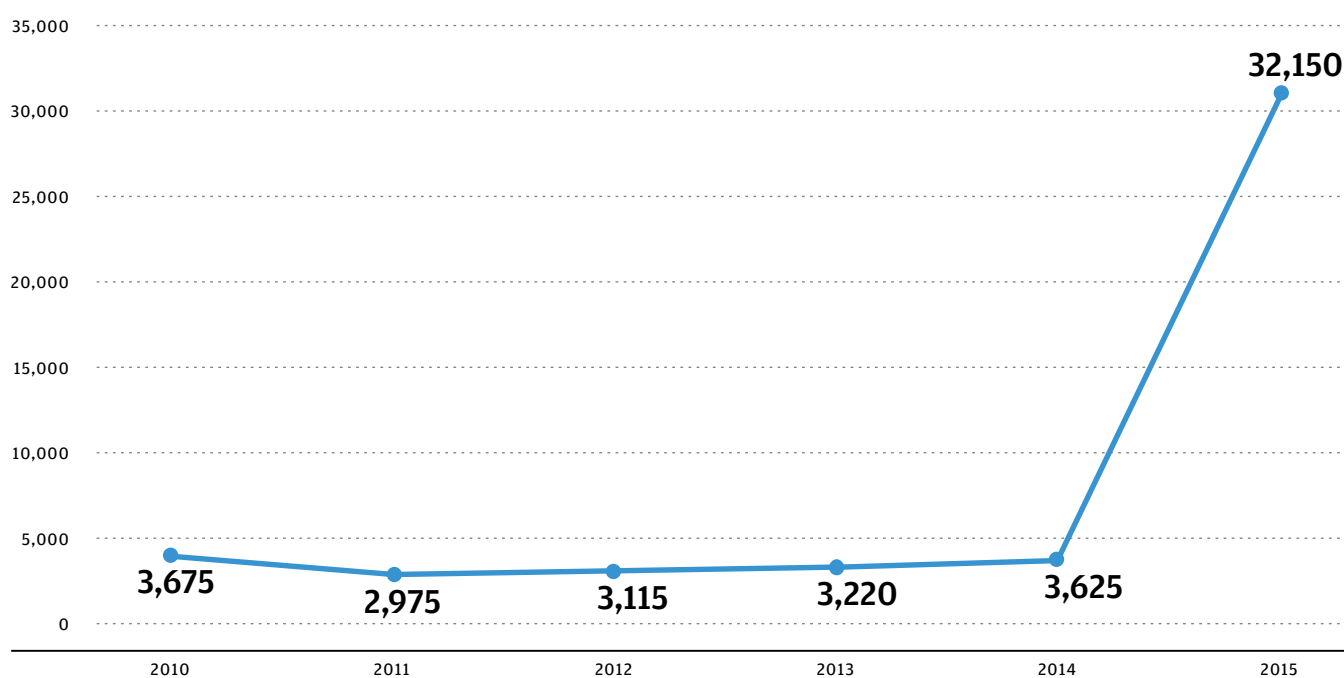
This has led to coordination challenges across services providers and relevant authorities, sometimes at the peril of torture victims. Authorities responded to the influx by establishing over 100 new reception centres, but have not always been able to sufficiently staff the centres or to provide them with appropriate training to work with traumatised refugees.

According to CTSF, the major challenge in Finland is the lack of awareness of or specialised support for torture victims throughout the entire asylum procedure. At present, there are no mechanisms or procedures to systematically identify torture victims.

## ABOUT CTSF Finland

CTSF is an outpatient ward of specialised healthcare for assessing, treating and rehabilitating refugees and asylum seekers and their family members resident in Finland, who suffer from torture trauma. The centre provides individual, multidisciplinary, comprehensive therapy to victims of torture on an out-patient basis. Treatment methods include psychiatric assessment, psychological assessment and testing, medical and neurological evaluation, special consultation and referrals to hospitals, psychotherapy, physiotherapy, and art therapy. CTSF develops and tests new action modes and functions as a national centre of expertise for other organisations involved in caring for people who have been tortured. CTSF trains, provides consultation services for and instructs social and healthcare sector professionals, various authorities and NGOs.

## Asylum applications in Finland, 2010 - 2015



All asylum seekers arriving in Finland are provided with a medical screening at the beginning of the process but this is largely meant to detect communicable diseases and not to serve as a mechanism to identify torture victims and other vulnerable applicants.

When torture victims are not identified, they don't receive rehabilitation services, special procedural guarantees, adequate reception facilities or even basic needs. Asylum seekers do not have a legal right to access the healthcare system and are only entitled to acute or emergency care. This prevents them from having regular access to doctors or psychologists for rehabilitation purposes.

To request a doctor, an asylum seeker must leave a note with the nurse or social worker at their reception centre. The nurse will then determine whether the person is in acute need of a doctor, or whether the nurse can treat them at the reception centre. Even if the asylum seeker is allowed to visit a doctor, there is very often a knowledge gap in the Finnish healthcare system, as medical staff are often not trained in how to deal with torture lesions or torture trauma.

The Finnish Immigration Service has started to take some action to address the lack of training. In May and June 2016, it organised a one-day training session for nurses working in reception centres and social workers on mental health and on detecting mental health disorders among refugees. Further trainings are planned for autumn 2016.

CTSF has found that the reception conditions are inadequate for the needs of torture victims and other traumatised refugees. Due to the dramatic increase in asylum applications, asylum centres are often overcrowded. CTSF have noted that there is no consideration of the national or religious background of asylum seekers when they are placed in reception facilities, potentially leading to further isolation and anxiety.

Furthermore, adolescents who have only just reached adulthood are housed with other adults, which may not be appropriate if the person is heavily traumatised. The Finnish Immigration Service has also acknowledged that there are vast discrepancies in the quality of education provided across reception facilities in Finland. In general, asylum seekers housed near the capital area have greater access to higher standards of education than those in more remote areas.

On occasion the authorities do refer individual asylum seekers who claim to be torture victims to CTSF for MLRs but this is not done in a systematic manner. Legal representatives are able to request MLRs on behalf of their clients but not all lawyers are aware of the MLR services provided by CTSF. Furthermore, since the number of asylum seekers has increased so dramatically in recent years, not all providers of MLRs follow the standards of the Istanbul Protocol. CTSF is currently in the process of conducting trainings on the Istanbul Protocol for stakeholders in Finland and recently the document was translated into Suomi.

Finally, CTSF is seriously concerned by the increased use of accelerated procedures for asylum seekers from "safe" countries of origin. Individual asylum seekers may be subjected to accelerated procedures if their application is considered manifestly unfounded or if the asylum seeker has arrived from a safe third country or country of origin. Worryingly, Afghanistan, Iraq and Somalia have recently been added to a list of countries considered "safe" by the Finnish Immigration Service.

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**“One of our clients was in serious pain and discomfort from a toothache. It took almost a year before he received any help. Other clients report similar issues.”**

– Lotta Carlsson

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# FRANCE

**Although asylum applications in France have not increased as sharply compared to other countries in the EU, refugees and torture victims have still faced acute challenges. Particularly troubling have been problems with reception facilities and the shortages of housing, leaving many asylum seekers, including torture victims, without accommodation.**

## ABOUT **Parcours d'exil**

Parcours d'Exil offers holistic rehabilitation services to individual victims of torture and ill-treatment and their family members. These services include therapy sessions that may comprise of medical, psychological or physiological interventions. Each patient is seen primarily by a physician and depending on need is oriented toward other therapists. In addition to treatment, language courses and cultural initiation are also provided according to the individual needs of the patient. The primary objectives of Parcours d'exil are to provide holistic rehabilitation services to victims of torture and to offer trainings to stakeholders in recognising symptoms of torture trauma. Parcours d'exil also engages in awareness raising activities to highlight the plight of victims of torture in France as well as national and international advocacy to promote the right to rehabilitation.

## **Children playing at the refugee camp Grande-Synthe in France.**

© Anjo Kan



The French Office for the Protection of Refugees and Stateless People (OFPRA), has struggled to cope with the numbers of asylum seekers, which has resulted in vulnerable groups such as torture victims being forgotten.

The biggest challenge in France is currently the housing of asylum seekers. In 2014, the government housed less than 40 percent of those who were entitled in regular reception centres. Many asylum seekers are housed in hotels through emergency schemes but there is also a worrying number of asylum seekers who end up homeless as local authorities and NGOs are unable to pay their hotel fees. Homeless asylum seekers have to rely on civil society or relatives for shelter.

This has an extremely negative impact on asylum seekers in general and in particular persons with torture trauma whose mental health may seriously deteriorate. Among the torture victims it supports, Parcours d'Exil has a number of homeless clients who are all at various stages of the asylum process, including those who have had their claims rejected.

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“Homeless torture victims find it particularly difficult to meaningfully engage in the rehabilitation process due to their extremely precarious situation. Although the French government aims to increase the number of asylum seekers housed in regular reception facilities to 55 percent by 2017, we are concerned that even this figure might not be achieved.”

– Jerome Boillat

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The absence of an early identification procedure is at the root of many of the problems experienced by torture victims seeking asylum in France. Early identification could ensure that victims are provided with adequate housing and located in regions and cities where they can access rehabilitation services. However, there are still no specific assessment procedures or mechanisms that authorities can use to identify vulnerable applicants, aside from girls and women who have experienced female genital mutilation.

Medical examinations do take place at the reception or housing centres, however, only one third of asylum seekers have access to those reception centres. Furthermore, the examination takes place on average eight months after the submission of the asylum claim and it is only a physical examination with the objective of detecting communicable diseases such as tuberculosis.

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“In our view the French authorities do not ensure that torture victims receive the necessary treatment for the damage caused by torture in accordance with Article 25(1) of the Reception Conditions Directive.”

– Jerome Boillat

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The treatment torture victims receive once they have been identified depends on the region in France and the quality of treatment NGOs are able to provide. In general, torture victims tend to have access to better treatment if they are in or near Paris and Lyon where there are more services. Even though asylum seekers do have access to the public healthcare system, the French authorities do not provide specialised care for torture victims. Appropriate medical or psychological treatment care does exist for torture victims insofar as they have access to an NGO such as Parcours d'Exil that provides such services.

Rehabilitation for torture victims also depends heavily on the capacity of the centres providing the services. Due to the increase in applications, long waiting lists are a significant challenge for clinicians at Parcours d'Exil. Some clients have to wait up to eight months before they are able to see a therapist, but staff have now developed an effective emergency service for clients with acute needs. For instance, Parcours d'Exil recently had a case of a severely depressed asylum seeker who was able to receive treatment a few days after his arrival in France. The clinicians decided that it was crucial to intervene immediately because of the poor state of his condition, which included suicidal ideation.

The early rehabilitation and treatment he received had a positive, stabilising impact on his mental health and clearly exemplifies the necessity of shortening waiting lists. Despite implementing obligations of the French authorities, most NGO service providers do not have sufficient capacity to meet the demand. The lack of funding from the French state is a serious problem and can only be improved by ensuring adequate and continuous budgetary allocation for these services.

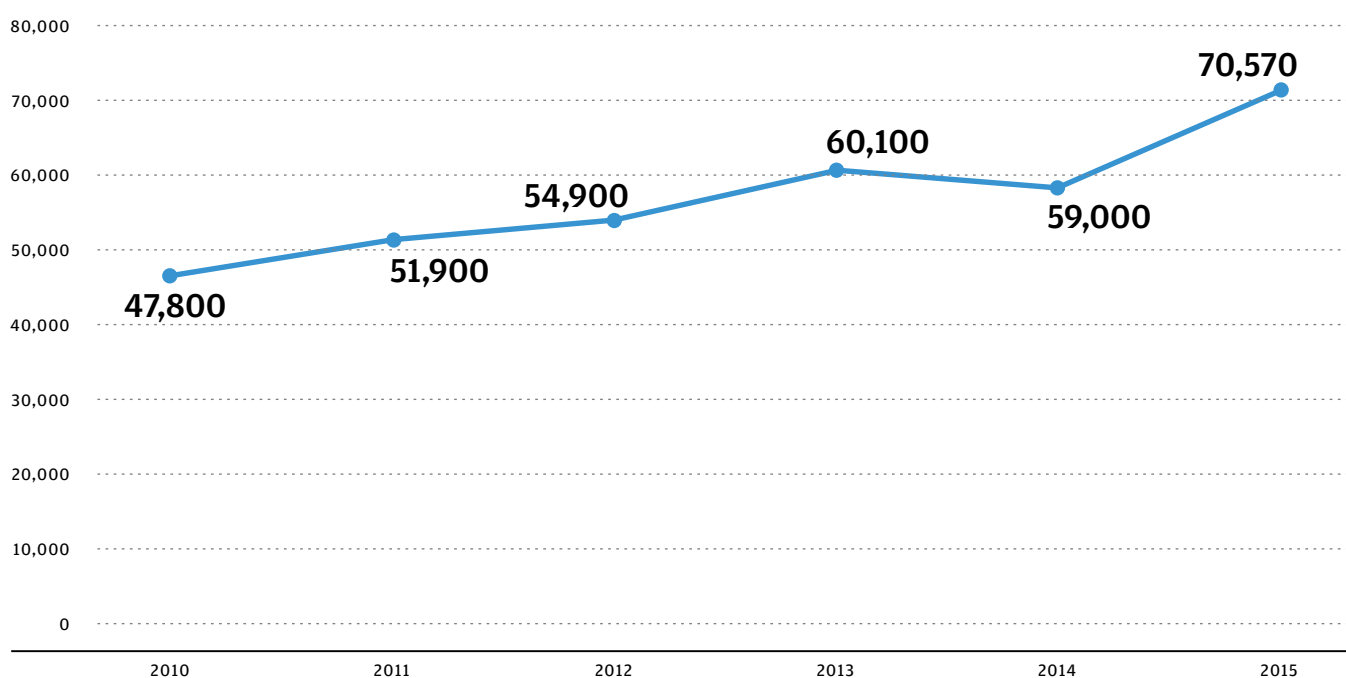
Torture victims who are not identified miss out on rehabilitation and cannot access crucial support measures to process their asylum request. This mainly relates to procedural safeguards that take account of their psychological traumatisations in the assessment of their asylum claim and access to a full medico-legal assessment of their torture allegations. But even when victims are identified, *Parcours d'Exil* has found that procedural safeguards are generally limited to very practical needs during the asylum interview – taking into account factors such as the gender of the interviewing personnel – but rarely the broader problems with the procedure itself.

For instance, there is no automatic exclusion from accelerated asylum procedures for those identified as torture victims. The asylum seeker can submit additional evidence, such as an MLR if they have been tortured, to request being processed in the regular procedure but re-routing to the regular procedure does not occur automatically.

MLRs can help victims credibly document their allegations of past torture as evidence for asylum proceedings. For many victims this evidence is an essential element in their claim for international protection. At present, the French authorities does not offer MLRs to asylum claimants. The newly implemented Asylum Law in France does provide the French authorities with the opportunity to refer asylum seekers to an organisation that can provide an MLR, however this has only been made available to girls and women who have experienced female genital mutilation.

Instead, torture victims need to request support themselves from organisations with specialised expertise in producing MLRs. There are currently very few of these organisations and the quality of the MLRs they produce varies, as the reports are not based on a common standard such as the Istanbul Protocol.

## Asylum applications in France, 2010 – 2015





**Refugees living under a bridge  
in the 19th Arrondissement of Paris**  
© Gail Palethorpe

In Parcours d'Exil's experience, high quality MLRs carry significant weight in refugee status determinations and can thus help victims get a fair determination. Unfortunately, this means that victims who do not manage to access the very limited supply of quality MLRs risk having a negative impact on their refugee status determination.<sup>8</sup>

The French authorities have been trying to improve the system over the last two or three years and have expressed a willingness to engage in dialogue with NGOs like Parcours d'Exil. There is now greater space for Parcours d'Exil to intervene in individual cases and the authorities have been largely receptive to this. While French authorities do not make it a requirement for everyone working with torture victims to receive special training, OFPRA caseworkers are now meant to receive specific training to deal with those with psycho-traumatic issues. OFPRA have also established working groups on vulnerable asylum seekers (including unaccompanied minors and torture victims) and a working group on MLRs. The aim of these groups is to provide manuals of best practices for OFPRA employees and although they are internal working groups, they do engage with external specialists such as NGOs.

**In May 2016, the UN Committee against Torture recommended that the French State put in place a clear policy for rehabilitation of torture victims, identifies torture victims among asylum seekers and ensures that there are sufficient human and financial resources available to offer all victims rehabilitation support. This provides a blueprint for the French State to guarantee that all torture victims who arrive in France receive adequate support.**

# GERMANY

In 2015, Germany received the largest number of refugees in the EU, with nearly half a million asylum applications. German authorities have struggled to respond to the scale of the influx and the biggest problems for torture victims have been healthcare and reception facilities. IRCT torture rehabilitation member centres from Berlin and Bochum informed this research, offering insight into problems in different federal regions (Bundesländer) of Germany.

Refugee family from Afghanistan in the initial reception center for refugees in Riem, Munich  
© Jazzmany



## ABOUT THE MEMBER CENTRES

**Berlin Center for the Treatment of Torture Victims (bzfo)**  
**Medical Care Service for Refugees Bochum (MFH Bochum)**

**Bzfo** has been rehabilitating victims of torture and violent conflict from over 40 countries since 1992. People fleeing from torture and persecution from Chechnya, Turkey, Iran, Iraq, Syria, Lebanon, Somalia, Eritrea and the Balkans have sought help over the years. Bzfo's multidisciplinary team is specialised in medicine, psychotherapy, psychology, physiotherapy, social work and creative therapies. Together with trained interpreters bzfo treats 400 patients a year. Bzfo raises awareness through publications both for the general public and decision-makers, through participation in workshops and conferences, by networking with national as well as international organisations and bodies as well as public relation work. Its international activities focus on the establishment of treatment centres in persecutory states and crisis areas of torture as well as national and international advocacy to promote the right to rehabilitation.

**MFH BOCHUM** is an independent human rights organisation, which since its foundation in 1997 has provided medical and psychosocial care for victims of torture and ill-treatment in Germany. This work requires a multidisciplinary approach ranging from clinical medicine and psychotherapy to social work, legal assistance and the promotion of human rights. This holistic methodology allows MFH Bochum to support torture victims according to their individual needs. Through international advocacy, MFH Bochum promotes the concept of "justice heals" for its clients to engage in the global fight against torture by combatting impunity.

**Bzfo – BERLIN, BRANDENBURG**

All asylum seekers are provided with a medical screening at the beginning of their asylum claim, to detect the presence of communicable diseases, such as tuberculosis. However, there is no specific medical screening to detect torture. Asylum seekers must inform the social worker or staff member at the reception facility that they need to see a doctor.

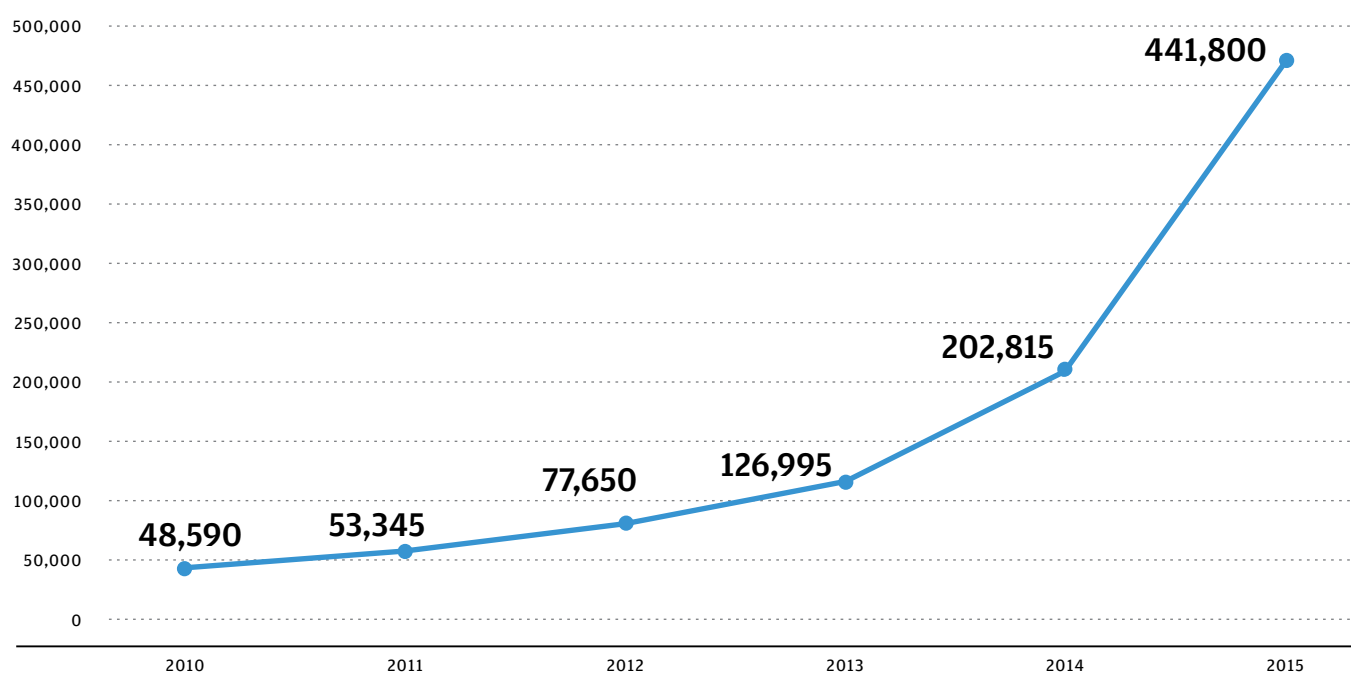
In general, asylum seekers in Germany have very limited and restricted access to healthcare, as it is only available in emergencies or if the applicant suffers from acute health problems and treatment is deemed necessary. In order to access to healthcare services, asylum seekers must apply for a special health insurance voucher known as Krankenschein from the reception centre or the social welfare office of the relevant municipality. In practice, this means that in some cases asylum seekers are not able to access healthcare when in pain or discomfort. They must first request this health insurance voucher, which in effect serves as a permit to see a doctor. However, asylum seekers are able to apply for the same health insurance as German nationals after being in the country for 15 months.

As a result of changes to the asylum law in Germany in 2015, regions are now able to offer access to healthcare without the issuance of permits. Since January 2016, the regional authorities in Berlin offer asylum seekers a health insurance card upon arrival without the need to receive permission from the social welfare office.

“We recently engaged in a research study, which aims at looking at what types of care fall under the scope of “necessary treatment” and preliminary results suggest that in other parts of Germany, requests for therapy will generally never fall under the scope of ‘necessary treatment’.”

– Nadja Saborowski

## Asylum applications in Germany, 2010 – 2015





Thousands of refugees entered Germany in 2015 and 2016, many of them on foot | © Janossy Gergely

Staff at social welfare offices do still deny requests to access certain types of treatment they deem “unnecessary”. This is often the case when traumatised asylum seekers request therapy sessions. Psychotherapy and other specialised treatment is provided to torture victims through organisations such as bzfo but the number of locations where this is available are limited and centres are running at full capacity. Furthermore, many torture victims do not live near these specialised service providers so do not have access to adequate treatment in practice.

Regional authorities are able to exercise administrative discretion in deciding what constitutes “**necessary treatment**” and hence whether to provide a torture victim with state funded therapy. Bzfo often intervenes in the cases of individual clients to argue that therapy should be considered “necessary treatment” but the outcomes of these interventions are not always successful.

At the federal level, torture victims normally do not receive support to address their special reception needs. However, at the regional level, there have been some projects in conjunction with NGOs. For instance, bzfo participated in a project, which attempted to institutionalise the early identification of torture victims with the regional authorities in Berlin.<sup>9</sup> Bzfo trained staff from state authorities who would potentially encounter torture victims, to identify signs of traumatisation.

If they noticed signs of traumatisation, the asylum seeker would then be referred to bzfo and be able to see a psychologist. Bzfo collaborated in-depth with the regional authorities but also with the social workers at the reception facilities to identify the needs of torture victims. Even with this in place there are still problems, as it is difficult to get the authorities to provide special support even when a torture victim has been identified.

In Berlin, there are three specialised reception centres for vulnerable persons, including those that are traumatised. One of the main distinguishing features of these specialised centres is that they have smaller rates of occupancy per room, meaning that rooms are occupied by one or two people, compared to the standard four to ten people per room in the normal reception centres. Bzfo commends the authorities for the standards in place at this specialised centre, however, due to the lack of identification procedures, many torture victims do not have access to these centres.

Bzfo offers training on how to work with traumatised persons as a part of the Berlin Network for Particularly Vulnerable Refugees project. The training is offered to social workers, NGO staff that run reception centres, regional authority staff and psychologists working with traumatised people. In the past, bzfo also provided training for staff at the Federal Office for Migration and Refugees (BAMF), however, this has been discontinued in recent years.

## MFH BOCHUM – BOCHUM, NORTH-RHINE WESTPHALIA

The two biggest issues facing torture victims in the region of North-Rhine Westphalia are related to healthcare and reception facilities.

A root cause of this is the lack of any procedures or mechanisms to systematically identify torture victims. Asylum seekers are provided with a medical screening, which serves to detect communicable diseases such as tuberculosis but nothing to identify signs of torture and ill-treatment. Asylum seekers at reception centres may be given medical examinations by volunteer physicians at the centres but they are often not specifically trained to detect signs of trauma.

In the region of North-Rhine Westphalia, various NGOs run projects to identify victims and these sometimes work in cooperation with staff at first reception facilities. However, once torture victims have been identified, they are not provided with procedural guarantees or special reception conditions, in the experience of MFH Bochum. On occasion, MFH Bochum will receive a referral from staff at a reception centre, who may be particularly concerned about the psychological symptoms an asylum seeker exhibits. This, however, is largely because they are not trained to deal with torture victims and will request guidance on how to deal with the situation. MFH Bochum will normally receive this person, investigate their needs and, if necessary, provide crisis intervention and therapy. On rare occasions, the authorities may finance this treatment but the cost is normally covered by project funds.

The Asylum Seekers' Benefit Act of 1993 restricts access to healthcare to cases of "acute diseases or pain" in which "necessary" medical treatment must be provided. However, the term "necessary medical treatment" is legally vague, which gives the asylum authorities discretion to determine what is and what is not "necessary". One of the positive aspects of Asylum Package I (2015) was that it allowed the regions to bypass the provisions in the Asylum Seekers' Benefit Act of 1993, which restricted access to healthcare. Regions are now able to provide asylum seekers with full health insurance, which some cities in the Region of North-Rhine Westphalia do through the issuance of insurance cards. However, the granting of psychotherapy and additional treatment that may be considered "indispensable" to the health of the torture victims, is still left to the discretion of the local authorities.

In MFH Bochum's experience, when they have requested or argued that certain treatment is "**indispensable**" for their client's health, it is often denied by the authorities.

The regular German healthcare system has been fundamentally unprepared for the needs of refugees and in particular for the special needs of vulnerable asylum seekers, such as torture victims. There are no provisions for interpretation. So while some MFH Bochum clients were seen by General Practitioners (GPs) or specialists at hospitals or clinics, the diagnosis of problems and subsequent prescription of treatment takes place without interpretation or translation. At this stage, MFH Bochum will have to step in to explain the medication and the diagnosis to the client. Lack of translation and interpretation in the regular healthcare procedures creates a lot of knock on issues for asylum seekers. MFH Bochum will often have to check up on clients who are diagnosed with paranoid schizophrenia and PTSD.

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**“Some of our clients received medication without any translation or explanation of their diagnoses, resulting in benzodiazepine addictions in some cases due to a lack of knowledge about what doses to take.”**

– Christian Cleusters

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Another major problem for MFH Bochum clients is reception facilities and housing. Under the Asylum I Package of October 2015, asylum seekers must remain in first reception centres for the first six months. In the experience of MFH Bochum, material reception conditions do not provide an adequate standard of living to guarantee physical and mental health of torture victims at these centres. They are mostly staffed by volunteers and usually overseen or supervised by a social worker employed on a part-time basis.

Alongside first reception centres, authorities also established emergency shelters – in sports halls for example – with even more austere conditions. There are cases in these emergency shelters with 250 people sleeping on bunk beds in a small, open space. Asylum seekers are only



supposed to be at these emergency reception facilities for three weeks but the asylum authorities are so overwhelmed at the moment that MFH Bochum regularly see clients who end up spending six months here.

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**“Many of the improvised emergency facilities have very strict security provided by private companies. During a hunger strike in one of the facilities, the security firm denied us entry, presumably because they were afraid we would report our findings.”**

— Christian Cleusters

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Lack of privacy and information about the asylum procedure are two of the biggest concerns MFH Bochum’s clients report. Clients have noted that they feel “forgotten” by the authorities at these emergency shelters and can sometimes go six months without being registered. Other problems the centre’s clients have reported are that children do not receive formal education at the emergency shelters and that they are deeply worried about the extension of time limitations on family reunification to two years.

The authorities do not train staff in reception centres receive on working with torture victims but will on occasion contact MFH Bochum if they see particularly acute symptoms of trauma, to ask for guidance. MFH Bochum is instead left with the task of training volunteers, clinicians, social workers and other NGO staff at reception facilities in supporting torture victims. Unfortunately, MFH Bochum does not have the financial resources to meet the scale of the demand. In 2015, MFH Bochum trained 1,000 people but the need is much higher.

Asylum seekers can access MLRs but the onus to request one is on the asylum seeker or their legal counsel as they need to contact a specialist NGO. The German government does not, pay for the MLRs to be produced, meaning the organisations must cover the cost.

Under the new asylum rules introduced in Germany through Asylum Package II, the asylum authorities will be able to make an asylum decision within one week for certain population groups (i.e. safe countries of origin) and to make a decision on an appeal within two weeks. Safe third countries currently include Albania, Ghana, Bosnia, Kosovo, Macedonia, Senegal and Serbia. Other safe countries currently pending are Algeria, Morocco and Tunisia. MFH Bochum is extremely concerned that these accelerated processes do not allow for torture victims to be identified and given the relevant support measures. This may result in the rejection of torture victims with very valid protection claims.

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**Several thousand refugees are wandering into the direction of Deutschland**  
© Janossy Gergely



# HUNGARY

Hungary saw very high increases in asylum applications in 2014 and 2015. Political decisions in the country led to the construction of a fence at the border with Serbia in the summer of 2015 with refugees and asylum seekers on the receiving end of a hostile State response. The situation for torture victims is consequently very poor, with flagrant violations of human rights and basic needs completely neglected. Amendments to the asylum laws have virtually criminalised asylum, for instance through criminal penalties for damaging the border fence. That has resulted in many torture victims being placed in detention, accelerated procedures and many being deprived many basic rights.

## ABOUT The Cordelia Foundation

The Cordelia Foundation was founded in 1996 and offers psychiatric and psychosocial care to torture victims and from all over the world. Cordelia's team is comprised of psychiatrists, therapists, social workers, and interpreters. Cordelia's core activity is to provide direct assistance to victims of torture residing in Hungarian reception centres. This involves therapeutic services, including individual, group and family therapies, as well as movement, relaxation and art therapy. Cordelia also assists torture victims during the legal procedure of applying for asylum by issuing an MLR containing psychological/somatic evidence of the torture experience, and providing practical help for refugees concerning accommodation, job opportunities, and services in general. The psychiatric and psychosocial assistance is based on internationally recognised methods developed by the Cordelia Foundation. The Foundation is also involved in training and awareness raising campaigns, which involves working closely with authorities and partner organisations.

War refugees at the Keleti Railway Station in Budapest, Hungary.  
© Alexandre Rotenberg



Asylum seekers entering Hungary are frequently detained due to the broad interpretation of grounds for asylum detention and the criminalisation of irregular entry into the country. Asylum seekers can be detained if they are deemed a “threat to public safety”. The Office for Immigration and Nationality (OIN) has interpreted this to mean that any asylum seeker with a conviction, including for irregular entry or damage to the border fence, is prima facie a threat to public safety. This allows for the systematic detention of all asylum seekers.<sup>10</sup> Cordelia has found that torture victims and other vulnerable asylum seekers are held in detention facilities as frequently as in open reception facilities.<sup>11</sup>

As there is currently no mechanism for identifying torture victims, any procedural safeguards that the Hungarian legal framework may have, is rendered illusory. This is the case for all stages of the asylum procedure, including during registration at the border, in detention and in prison. Research by Cordelia shows that even in cases where an asylum seeker has a visible physical disability, authorities do not enact special procedural guarantees.<sup>12</sup> Torture victims are also included in accelerated asylum procedures as Hungarian law allows for the accelerated procedure to be used on 10 different grounds, including where persons are “presenting false documents”. These grounds are so broad that they apply to many (perhaps even a majority) of the asylum seekers arriving in Hungary.

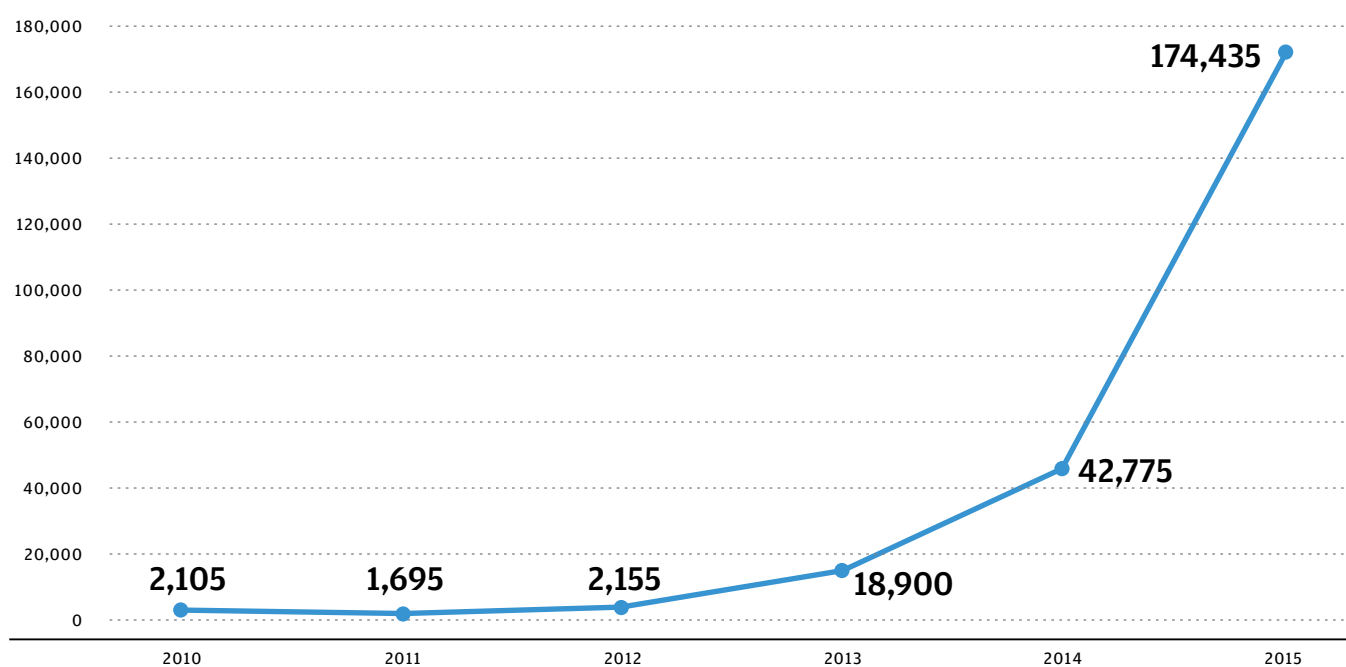
Worryingly, the amended Asylum Act also contains provisions for imprisonment of asylum seekers if they enter the country irregularly (i.e. avoiding an official entry point) or by damaging the border fence with Serbia. These offences are punishable by up to eight years imprisonment and accompanied by one-to-three year re-entry bans.

The Cordelia Foundation has now instituted weekly services and monitoring visits in detention centres and reception facilities, where they have now instituted weekly services and monitoring visits. Cordelia Foundation has even made it possible for local psychiatrists to provide care in some centres.

“Asylum seekers at detention centres are provided with a medical examination. However, we once witnessed medical examinations for 12 persons lasting no more than 10 minutes in total for all of them. This is clearly grossly insufficient to credibly determine whether the individual person may be a torture victim.”

— Lilla Hardi

## Asylum applications in Hungary, 2010 – 2015



One way torture victims can substantiate their allegations of torture is by requesting an MLR, for their asylum claim. The OIN is able to request MLRs but in practice they are normally provided at the request of the applicant via their legal team<sup>13</sup>. The Cordelia Foundation is the only NGO in Hungary that specialises in the treatment of torture victims and the only NGO that provides MLRs according to the Istanbul Protocol. The Hungarian courts and the OIN, have unfortunately, sometimes completely disregarded these MLRs. However in many cases, MLRs successfully contribute to proving the asylum seekers' allegation of torture and to international protection being granted. In cases when torture survivor or traumatised asylum seekers are placed in asylum detention, Cordelia Foundation's MLRs are aimed at proving the harmful, re-traumatizing effect of detention, and at ensuring that the person is transferred to an open reception facility.

The Cordelia Foundation provides weekly psychiatric and psychosocial treatment to torture survivor and traumatised asylum seekers and refugees in all the open reception facilities (currently Bicske, Vámoszabadi and Fót Center for the unaccompanied minors) and all asylum detention facilities (Békéscsaba, Nyírbátor, Kiskunhalas) and visits immigration jails and other detention sites at least twice a month. Obtaining entry permits from the authorities to visit these premises is a long and inflexible process as the location is fixed and staff or interpreters cannot be changed. This puts a considerable administrative burden on the management of the Cordelia Foundation.

Mental and physical health is a major concern for many torture victims who arrive in Hungary, often in perilous circumstances. The state does not ensure that torture victims receive the necessary medical and psychological treatment for the damage caused by torture and the Cordelia Foundation is the only NGO in Hungary to provide psychological services for torture victims. However, due to limited financial capacity and corresponding lack of clinical staff, the Cordelia Foundation can only support a limited number of victims. The Cordelia Foundation is not contracted by the OIN to provide these services and as such does not receive any remuneration. The costs are instead covered entirely through project funding.

Furthermore, referrals to the Cordelia Foundation's services depend on the discretion of the caseworker at the OIN or the local staff of reception and detention facilities.

As referrals from staff do not always take place when they should, the Cordelia Foundation cooperates actively with a whole network of NGOs providing services at the same premises, and gets referrals from the social workers of the Menedék Association, the lawyers of the Helsinki Committee or the monitoring teams of the UNHCR. Due to the Cordelia Foundation's long history and visibility in the centres, asylum seekers often manage to find the therapeutic team on their own initiative.

Even though asylum seekers are supposed to have access to primary public healthcare, the lack of translation and interpretation acts as a real barrier in accessing the regular healthcare system both in reception facilities and detention centres. The OIN does not always provide translators, due in large part to capacity constraints.<sup>14</sup>

**Child in group of refugees leaving Hungary**

© Procyk Radek



# ITALY

Italy garnered a lot of international attention during the refugee crisis, primarily due to the tragic deaths of refugees in unseaworthy boats in its territorial waters. The Italian government introduced changes to the legal framework for asylum procedures and reception conditions in an attempt to implement the Asylum Procedures Directive and the Reception Conditions Directive. Legislative Decree 142/2015 entered into force on 30 September 2015 and although it has several references to torture victims, there are still no specific procedures in place to ensure identification.

## ABOUT CIR

CIR provides assistance to refugees and asylum seekers who have been forced to flee their countries. This is done through the provision of direct services and also through communication, awareness raising and advocacy efforts that promote greater understanding in Italy of refugee issues by fostering social and cultural initiatives to benefit exiles who have reached our country. Under the name 'Vi.To' (short for 'victims of torture'), CIR offers a range of medical and specialised psychological services to victims of torture by providing legal, social, medical and psychological assistance to victims of torture and their families. The primary objectives are to engage in the early identification of torture victims, to provide adequate care, and medical and psychological assistance and to raise awareness of the plight of victims of torture in Italy.

Refugees fleeing the war leaving the ship *Flaminia* ferry in the port of Genoa.  
© Riccardo Arata



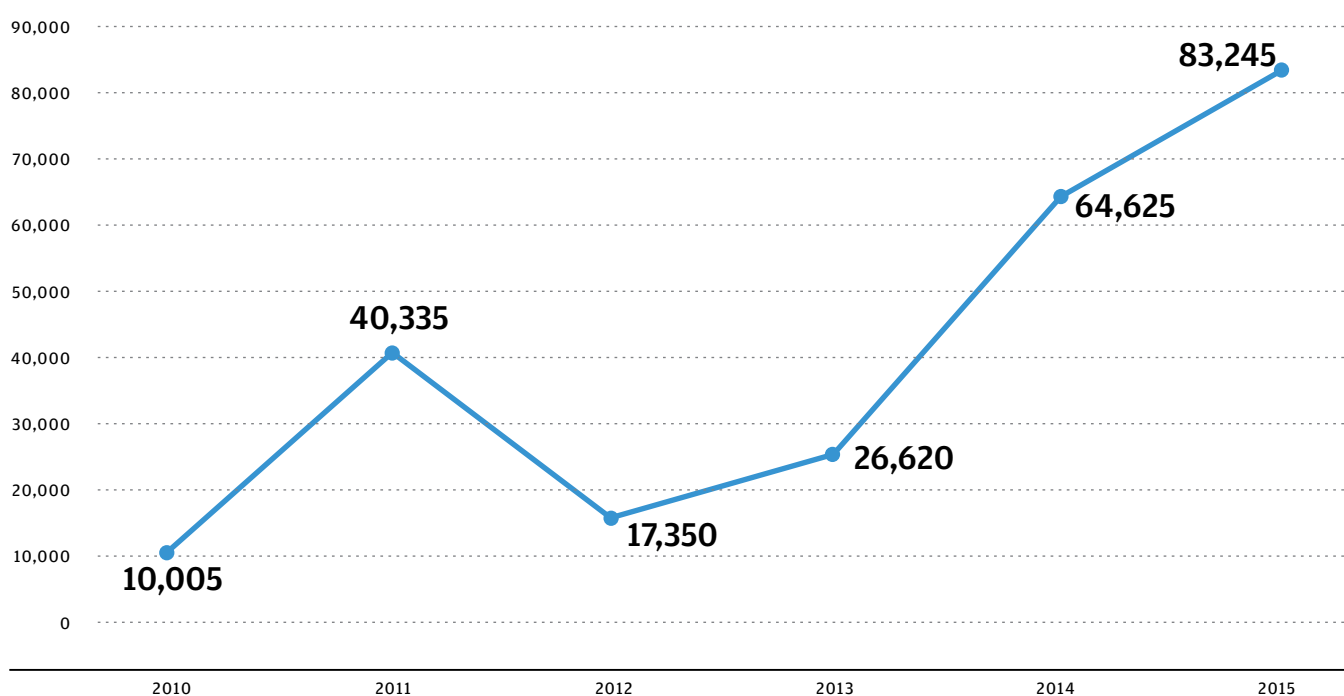
In CIR's experience, torture victims are not systematically identified in Italy as it largely happens on an ad-hoc basis depending on the competence and training of the relevant authorities.<sup>15</sup> Torture victims may never be identified and may go through the entire procedure without ever bringing up their experiences to involuntary avoidance and disassociation – both common psychological consequences of torture. Once identified, torture victims are provided with special procedural guarantees, including prioritised interview times. This means that their application will normally take precedent over others. This is also the case when the asylum authorities receive MLRs indicating that torture and ill-treatment has taken place.

One of the problems with the lack of identification is that it can potentially negate the safeguards torture victims have. While the detention rate of asylum seekers in Italy is generally low, there is no systematic way to identify torture victims in detention facilities, which means that it is possible for victims to be placed in detention. Once torture victims have filed their asylum claim and enter the asylum procedure, in the experience of CIR, they are not accorded adequate reception conditions.

In the past, there used to be specialised centres for vulnerable groups but this is no longer the case. There are now two different types of reception facilities in the country: First reception centres and second reception centres. The first reception centres are large-scale facilities run by the government, whereas the second reception centres are much smaller in scale and run by local authorities who often delegate the actual implementation to NGOs. Asylum seekers housed in the large-scale facilities receive varying degrees of assistance, depending on where they are and who runs the facility. Coordination between service-providers is generally poor, meaning that vulnerable asylum seekers might not have their special reception needs catered for. The smaller reception facilities do provide psychosocial support, including counselling, to vulnerable asylum seekers.<sup>16</sup>

Access to healthcare is another challenge facing torture victims when they arrive in Italy. Asylum seekers arriving by sea automatically undergo a medical examination, typically carried out by Medecins Sans Frontier. This examination is for all asylum seekers, not just torture victims, and is limited to the identification of communicable diseases, such as tuberculosis. Some vulnerable groups, such as unaccompanied minors, are singled out in this examination but this does not include torture victims.

## Asylum applications in Italy, 2010 – 2015





**Settimo Torinese, Italy - July 2015:**  
A Red Cross reception centre becomes a temporary hub for refugees arriving in Italy.  
© MikeDotta

Legally, asylum seekers have equal access to the Italian National Health Service as soon as they have filed the asylum claim. One of the main challenges for the National Health Service is the lack of interpreters and translators to transmit information and diagnoses to asylum seekers. CIR took part in a project titled the Italian Network for Asylum Seekers who Survived Torture (“NIRAST”), which ran from 2007 and ended in 2012 due to lack of funding. The project trained asylum authorities, staff at reception centres and medical staff in the National Health Service, to identify and treat torture victims and to draft MLRs.

Torture victims are able to request and receive MLRs in practice but this is dependent on them having access to an NGO that can provide this service, which means that not all torture victims have access to MLRs. According to LD 142/2015, the asylum authorities may request MLRs if there are signs indicating past persecution or harm.

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“Under the NIRAST project, we noticed a marked improvement in how authorities and health workers dealt with vulnerable asylum seekers. There were positive steps in how health professionals, civil servants and staff of the asylum authority reported on torture victims and how frequently they referred people to our services. Since the project ended due to a lack of funding, we have noticed that standards have dropped again.”

~ Christopher Hein

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# NETHERLANDS

Over 40,000 refugees sought asylum in the Netherlands in 2015, a near double increase from the year before. This has led to capacity problems for the Immigration and Naturalisation Service (IND) and has been particularly problematic for torture victims seeking treatment.

## ABOUT Psychotrauma Centrum Zuid Nederland (RvA NL)

Psychotrauma Centrum Zuid (RvA NL) is a research, treatment and knowledge centre for asylum-seekers, refugees, victims of war trauma and political violence. This includes children, adolescents and adults, who because of traumatic experiences have fled their country of origin and/or experienced war. The treatment focuses on a psychological balance to create trauma-focused therapy. The centre works from a contextual, cultural and sensory systems approach. RvA NL operates group oriented and culture-specific treatment services that takes into account the gender, culture and country of origin of clients. Rehabilitation services can take place in the native language of the client through the use of interpreters.

Protest against racism and islamophobia named  
"Refugees welcome, racism not!"  
© Cloud Mine Amsterdam





In the Netherlands there are no systematised procedures or mechanisms instituted for the identification of vulnerable applicants. Authorities rarely ask asylum seekers if they have experienced torture or ill treatment. In the majority of cases, specialist mental health or other services, such as RvA NL, identify the torture victim later in the asylum procedure.

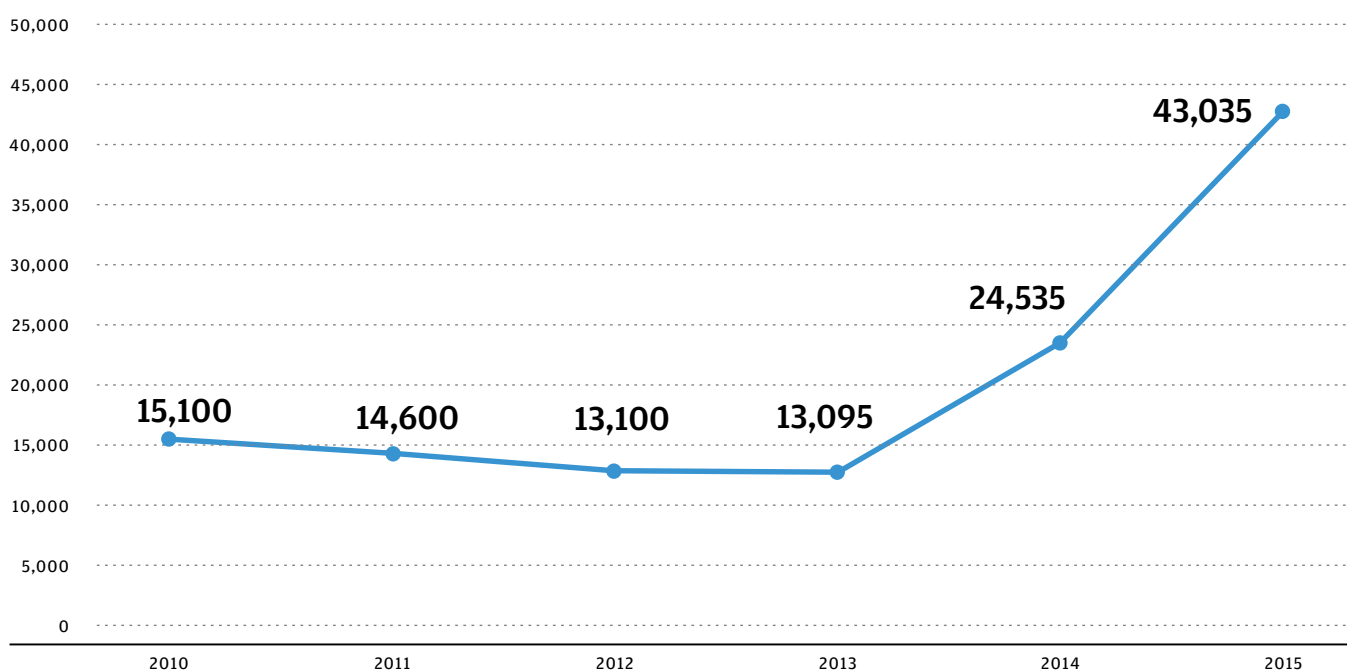
Healthcare is provided by an independent agency called FMMU hired by the IND to offer medical services to asylum seekers. They are required to interview all asylum seekers to assess whether they are physically and mentally ready to take part in the asylum interview. However, this assessment only looks at whether the asylum seeker needs special assistance during the interview. It is not a mechanism to identify vulnerable asylum seekers. In the experience of RvA NL, even when the asylum seeker exhibits clear evidence of trauma, the IND does not refer them to specialist mental health services for treatment or MLRs or make further inquiries as to the origin of the trauma.

The state does not ensure that torture victims receive the necessary medical and psychological treatment. In the experience of RvA NL, this is partly because they are not identified in a systematised procedure and because insurance companies tend to discourage referrals for treatment in order to reduce their costs. Specialised services providers, such as RvA NL, are not funded by the state but receive their funding through the insurance companies who focus on what they deem, “necessary treatment”.

“This ‘cost-reduction’ mantra poses a serious challenge to the provision of appropriate rehabilitation to victims.”

– Boris Drozdek

### Asylum applications in Netherlands, 2010 - 2015





**Demonstration “Refugees welcome, racism not” to protest against racism and islamophobia. A lady holds a sign saying love is stronger than hate.**

© Janossy Gergely

Torture victims are able to request and receive MLRs and according to Dutch law, the IND must request the medico-legal evaluation if it deems it necessary to support the applicant’s asylum case. The IND will ask an independent third party to carry out these medical examinations and will bear the cost of that evaluation. However, if the asylum seeker is of the opinion that they need an evaluation, but the IND disagrees, the asylum seeker must bear the cost. This unfortunately creates an incentive for the IND to limit referrals for medico-legal evaluations.

In theory, there is no separate procedure to process asylum claims more quickly in the Netherlands. However, a decision is made on all asylum cases within eight days, with a possible extension of six days. There have been concerns that the eight-day procedure is inadequate for the asylum seeker to be able to present all relevant information concerning their case including claims of torture and ill-treatment.<sup>17</sup>

In practice there are no special reception conditions for torture victims as they are kept in the same facilities as all other asylum seekers. There are various issues relating to material reception conditions, which make it difficult to guarantee mental health for torture victims. Many reception

facilities are overcrowded and lack privacy, which has a negative impact on the mental wellbeing of torture victims.

Finally, the vast majority of asylum seekers do not have access to the labour market due to formal restrictions on the right to work and informal barriers. RvA NL’s says this makes it difficult for some of their clients to begin to have more structure and normalcy in their lives.

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**“A big problem noted by our clients are the police raids that occur in many of these facilities on a regular basis. This is very disconcerting for torture victims, who are at risk of being re-traumatised by witnessing armed police officers storming the premises.”**

**- Boris Drozdek**

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# SWEDEN

Among EU countries, Sweden received the second highest number of asylum applications as a proportion of its population in 2015. Although the government initially welcomed refugees seeking protection, it subsequently backtracked and began placing restrictions on asylum, including reintroducing controls on the border with Denmark. Due to housing shortages, torture victims have been placed under considerable strain.

## ABOUT **The Red Cross Treatment Centre for Persons Affected by Torture and War**

The Red Cross Centre for Victims of Torture was initially established in Stockholm in 1985. As the need for rehabilitation became more evident, the Treatment Centre was established in Malmö in 1988. The Red Cross Treatment Centre for Persons Affected by Torture and War in Malmö supports refugees and their families living in Skåne County, suffering from the consequences of torture and war. Rehabilitation treatment is conducted using a holistic approach based on individual needs and circumstances. The traumatic experiences of war, imprisonment, torture, escape and exile are processed in an atmosphere of trust and respect for individual privacy. The goal is to give refugees support and assistance so they can live as normal a life as possible.

**A client and a physio during a session at RC Malmö.**  
© Swedish Red Cross, Ola Torkelsson



In the opinion of the Red Cross Treatment Centre, material reception conditions initially did not provide an adequate standard of living to guarantee physical and mental health. Many of the additional problems relate to the fact that there are no mechanisms for early identification of torture victims, and the integration process can be hampered if the victim is unable to seek appropriate treatment at an early stage. Furthermore, there are no special accommodation provisions for torture victims and other traumatised asylum seekers.

One of the big challenges is the coordination between different services, including healthcare. The experience is different across Sweden, but in principle all asylum seekers are supposed to receive a medical examination as soon as possible. There are added complications as torture victims are often examined by GPs who do not necessarily have the right training to work with them. As a result, the Red Cross Treatment Centre believes that the state is struggling to ensure torture victims get specialised medical and psychological treatment.

Many victims receive treatment from their local GPs, which is not adequate for their specific needs. The GP system is currently under great strain and many GPs do not feel comfortable providing rehabilitation services to torture victims without the necessary training. On some occasions there is confusion about the legal implications of any GP

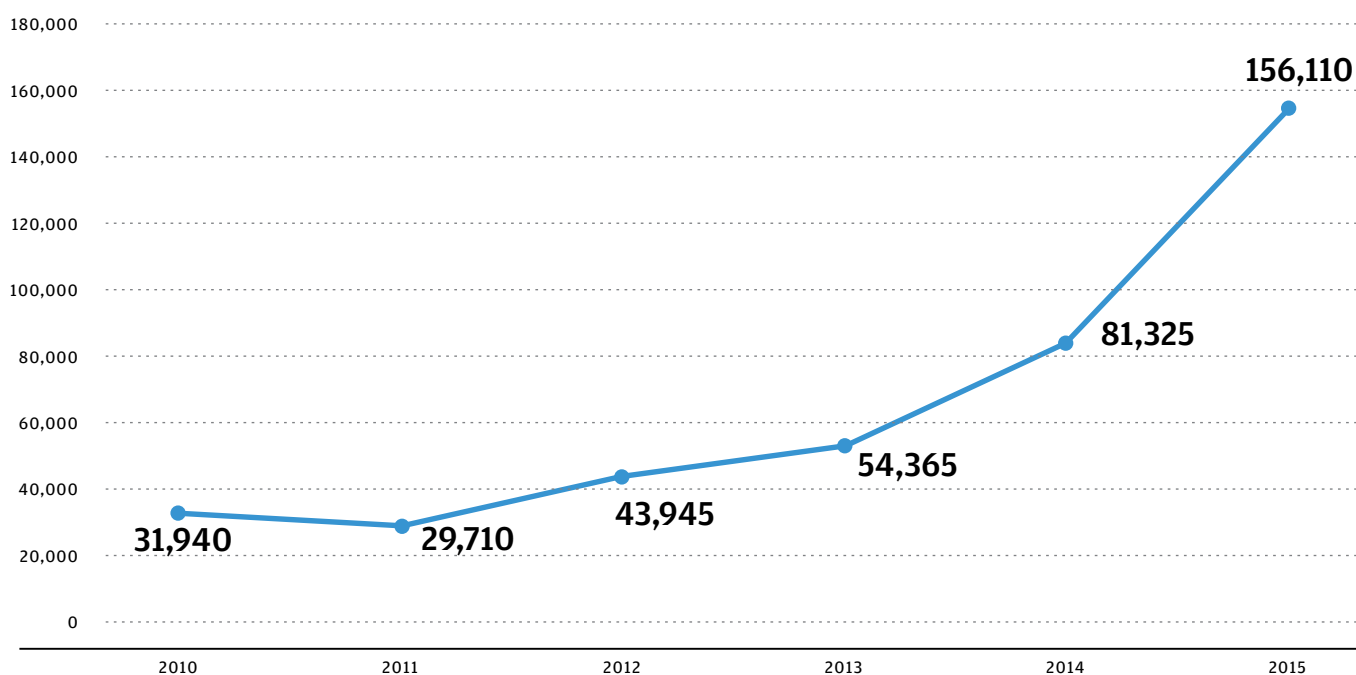
involvement. The Red Cross Treatment Centre reports that some GPs can be reluctant to inquire about torture as they fear they are overstepping a legal boundary, will make the victim uncomfortable, or simply feel they do not know what to do with the information at hand.

The Red Cross Treatment Centre does provide training through workshops and lectures. However, many of those working with torture victims do not receive adequate training; For example those working in sectors other than health care, such as social services. This is further complicated by the increase in new staff and the overwhelming number of asylum applications the Swedish Migration Agency is dealing with.

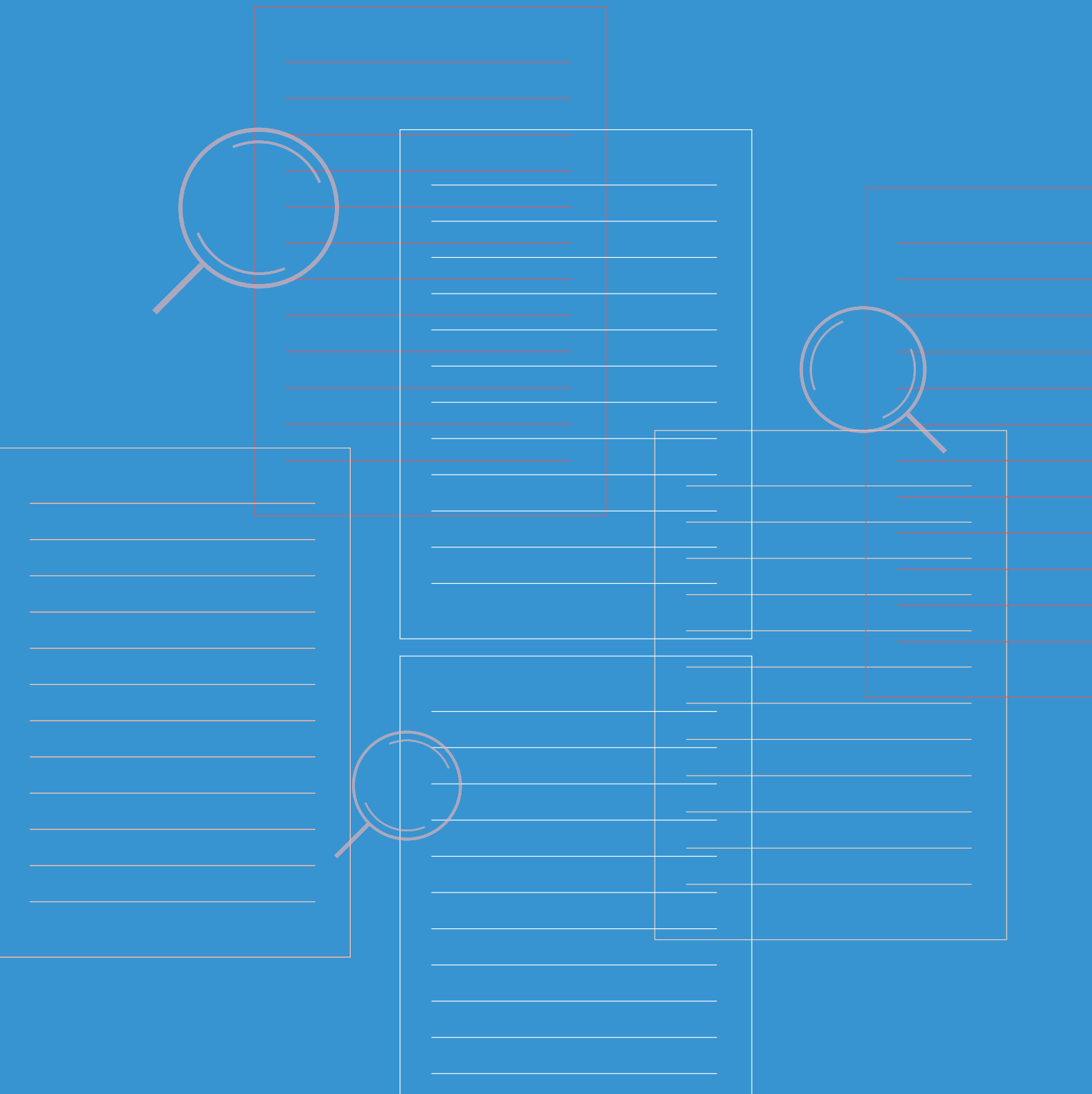
“Referrals to our services can happen in an arbitrary manner, depending on the knowledge of the asylum caseworker or the health worker. But we have found that when torture victims are identified, they are generally accorded special procedural guarantees.”

– Anette Carnemelm

## Asylum applications in Sweden, 2010 – 2015



# FINDINGS AND RECOMMENDATIONS



## International Legal Obligations

Torture is universally prohibited and a non-derogable principle of international law, most notably enshrined in the International Covenant on Civil and Political Rights (ICCPR) and the United Nations Convention against Torture (UNCAT).<sup>18</sup> Other regional conventions such as the European Convention on Human Rights (ECHR) and the Charter of Fundamental Rights of the European Union also definitively prohibit torture.<sup>19</sup>

The prohibition on torture also includes non-refoulement of people who face a risk of being tortured upon return to a third country. Both the Refugee Convention and the UNCAT expressly prohibit the return of an asylum-seeker to a country where they may be at risk of torture.<sup>20</sup> Jurisprudence of the European Court of Human Rights (ECtHR) has interpreted Article 3 of the ECHR to include non-refoulement where there are substantial grounds for believing a person would face a real risk of torture or inhuman or degrading treatment or punishment.<sup>21</sup>

Further non-refoulement principles are also included in Article 19(2) of the Charter of Fundamental Rights of the European Union, Article 15(b) of the EU Qualification Directive and through case law of the European Court of Justice. Non-refoulement and the prohibition of torture both hold the status of peremptory norms in International Law, allowing for no derogations under any circumstances.

All torture victims have a right to rehabilitation under international law. Article 14 of UNCAT obliges States parties to ensure that a torture victim has **“the means for as full rehabilitation as possible”**, which the Committee against Torture understands to be **“holistic and include medical and psychological care as well as legal and social services”**. The Committee has provided expert guidance on how State Parties should implement Article 14 and makes clear that states have an obligation to ensure that all torture victims are able to access and effective remedy and reparation, including those that suffered torture outside the state’s territory. The Committee specifies that the ultimate aim of rehabilitation should be **“full inclusion and participation in society”** and that torture victims have this right regardless of their **“identity or status”** including **“asylum seekers and refugees”**.<sup>22</sup> Torture victims, regardless of legal status, have a right to access to holistic rehabilitation services.

In addition, State Parties should adopt long-term integrated approaches to rehabilitation, ensuring that specialist services are available, accessible and appropriate to victims’ needs. According to the Committee, this should include **“a procedure for the assessment and evaluation of individuals’ therapeutic and other needs”** based on the Istanbul Protocol.

## Implementation of support measures for torture victims under the Common European Asylum System

The Common European Asylum System (CEAS) is a legislative framework that establishes common minimum standards for national asylum legislation in EU Member States. The CEAS legislative framework includes common standards for asylum procedures,<sup>23</sup> reception conditions,<sup>24</sup> qualification for protection,<sup>25</sup> fingerprinting of asylum-seekers for identification purposes,<sup>26</sup> and determining which Member State should examine an asylum claim.<sup>27</sup> The directives most relevant to torture victims are the Reception Conditions Directive and the Asylum Procedures Directive, which EU Member States had to transpose into national law by July 2015.

The Asylum Procedures Directive aims to establish common standards and procedures for third country nationals applying for international protection in the EU (not only on EU territory but also in transit zones and in territorial waters). The Reception Conditions Directive lays down standards for the reception of asylum seekers, including access to housing, education, health care, employment as well as medical and psychological care. The Asylum Procedures Directive and the Reception Conditions Directive have specific provisions relevant to torture victims.

### Identification

Both the Asylum Procedures Directives and the Reception Conditions Directive contain specific provisions for the identification of torture victims after an application for asylum has been submitted.<sup>28</sup> The Reception Conditions Directive further stipulates that Member States must assess whether an asylum seeker has special reception needs and what those needs are.<sup>29</sup>

However, in the experience of the IRCT member centres, the EU Member States surveyed in this report are not engaging in systematised identification of torture victims. All of the member centres participating in this report stated that their governments do not have any effective identification procedures in place. The danger is that torture victims will only be identified on an ad hoc basis. Support with special reception needs should not be based on the discretion of the individual asylum case owner but should be guaranteed to all vulnerable applicants. Several tools exist to assist Member States in identifying traumatised asylum seekers with special needs, including the PROTECT<sup>30</sup> questionnaire.

Torture victims must be identified in order to receive the holistic and individually tailored rehabilitation they are entitled to under international law so they can get better rather than experience further deterioration of their physical and mental health. Furthermore, identification is the key that unlocks the door to most other special measures for torture victims, such as special procedural guarantees and access to medico-legal examination of their torture claims. This means that inefficient identification procedures render the remaining support measures inaccessible to many victims.

## NOTE

The PROTECT project is an identification tool initiated by experts providing rehabilitation services to torture victims. PROTECT was led by IRCT member centre Parcours d'Exil, in France, along with 11 other EU-based NGOs providing holistic rehabilitation services. Key objectives were to enhance the identification of torture victims in the asylum process and to raise awareness of the need to facilitate their access to immediate health care and treatment.

The tool consists of a questionnaire, designed to check for the signs and symptoms of the most common health problems encountered by asylum seekers who may have suffered traumatic experiences, mainly PTSD and depression. This screening checklist has been devised so that nonmedical personnel, such as immigration authorities, civil servants, border guards or other stakeholders accessing asylum-seekers can use it in the early stages of the procedure.

The checklist assists the identification of vulnerable persons who have suffered severe traumatic experiences or who are suffering from other severe psychological distress in order to provide them with: (i) adapted material reception conditions, (ii) appropriate physical and mental health care, and (iii) adequate support through their asylum application. As a second step, the asylum seeker should have access to a full psychiatric or psychological diagnosis, if necessary according to Istanbul Protocol standards.

### Medico-legal reports

Article 18 of the Asylum Procedures Directive stipulates that Member States must arrange for a medical examination where they deem it relevant if the asylum seeker shows **“signs that might indicate past persecution or serious harm”**. Furthermore, when asylum authorities request a medical examination, Article 18 also obliges Member States pay for it out of public funds. However, several IRCT members participating in this report noted that the provision of MLRs is not always guaranteed in practice. They note that the Directive does not impose a strict obligation on Member States to provide MLR services to asylum seekers and that asylum authorities exercise broad discretion in deciding when such a medical examination may be **“deemed relevant”**.

This is particularly problematic because Article 18(2) of the Asylum Procedures Directive stipulates that in cases where the asylum authorities do not request a medical examination, asylum seekers must themselves arrange to cover the costs. For many victims, this cost renders essential medical evidence of their torture claims inaccessible. This creates a risk that valid protection claims will be rejected on the basis of incomplete evidence resulting in torture victims being sent back to their countries of origin where they are at risk of repeated torture and ill-treatment. It may also result in avoidable appeals and delays in the procedure to the detriment of the individual applicants and the broader functioning of the asylum system.<sup>31</sup>



## Special procedural guarantees

Article 24 of the Asylum Procedures Directive provides for special procedural guarantees for persons identified as torture victims so that they can benefit from the rights contained in the directive. Torture victims often suffer from PTSD and exhibit symptoms such as involuntary disassociation, avoidance and memory loss and intense emotions of distrust, fear and isolation. PTSD and torture trauma can severely inhibit a person's ability to engage with asylum procedures in a way that avoids re-traumatisation and ensures an appropriate assessment of their protection claim.

IRCT member centres noted that in their experience, asylum authorities do not provide the full scope of special support torture victims need. Once victims are identified, some Member States take a level of measures to avoid re-traumatisation in the asylum process, for instance, in relation to the interview procedure. Unfortunately, the implementation of these measures suffers greatly in the current context where asylum authorities are overwhelmed and have been forced to employ many new and inexperienced case officers, who are assigned to interview vulnerable applicants. Furthermore, in the experience of some IRCT members, requests for the postponement of interviews are rarely considered, even when requests are accompanied by medical diagnoses. Many asylum authorities also do not allow torture victims to bring family members, social workers or psychologists to support them during the status determination interviews.

These deficiencies in identification and support measures, not only risk the re-traumatisation of torture victims, they also enhances the risk that the refugee status determination will not adequately take into account the psychological symptoms suffered by many victims and take relevant corrective measures to ensure that the process itself is suitable to provide an appropriate examination of the asylum claim.

## Accelerated procedures

Article 24(3) of the Asylum Procedures Directive features provisions for accelerated asylum procedures for asylum seekers. One of the main grounds for activating this procedure is if the asylum seeker comes from a country that is said to be 'safe'. Under the accelerated procedures, the legal guarantees and safeguards for the asylum seeker are more restricted and the duration of the procedure is shortened. Some accelerated procedures are decided in one week with an appeals procedure that can subsequently take three more weeks. For torture victims, these processes can lead to return to a country where they are at risk of more torture and ill-treatment as, among other problems, they might not have access to MLRs to medically substantiate their allegations of torture in a shortened asylum procedure.

Treating symptoms related to the conditions of PTSD as a consequence of torture is often a long-term process that is incompatible with the time-frame of an accelerated procedure. These procedures are also often associated with deprivation of liberty, which can either re-traumatise or further aggravate torture traumatisation. Many of the IRCT members expressed serious concern about the feasibility of identifying torture victims in such a short time frame, especially as the existence of torture and ill-treatment is fairly well publicised in many countries of origin considered "safe". For instance, amongst the countries considered safe by Member States surveyed in this report are Algeria, India,<sup>32</sup> Morocco<sup>33</sup> and Tunisia.<sup>34</sup> All of these countries are regularly criticised by relevant UN monitoring mechanisms for the continued use of torture and their lack of adequate support to victims.

## Reception conditions

Article 17(2) of the Reception Conditions Directive stipulates that material reception conditions shall ensure an **"adequate standard of living"** for asylum seekers, which protects their mental health. Furthermore, Article 18(3) notes that **"Member States shall take into consideration gender and age-specific concerns and the situation of vulnerable persons in relation to applicants within the premises and accommodation centres."** In practice, however, IRCT member centres participating in this report noted that in their countries or regions, there is rarely any consideration given to the mental health or the particular situation of the torture victim. Indeed, conditions of overcrowded facilities with a lack of privacy are ubiquitous across the Member States surveyed in this report.

## Healthcare and rehabilitation

Article 19 of the Reception Conditions Directive establishes the parameters for the provision of health care to asylum seekers. It notes that Member States “shall ensure that applicants receive necessary health care which shall include, at least, emergency care and essential treatment of illnesses and of serious mental disorders”. Article 19(2) directly refers to the provision of healthcare for vulnerable asylum seekers. It stipulates that Member States **“shall provide necessary medical or other assistance to applicants who have special reception needs, including appropriate mental health care where needed”**.

Article 25 of the Reception Conditions Directive directly addresses the needs of torture victims and violence. This is a welcome provision in the Reception Conditions Directive as it recognises the special medical and psychological needs of torture victims. It notes that Member States **“shall ensure that persons who have been subjected to torture, rape or other serious acts of violence receive the necessary treatment for the damage caused by such acts, in particular access to appropriate medical and psychological treatment or care.”**

The IRCT centres participating in this report noted that due to restrictions on healthcare, lack of knowledge and pressure on existing services, many torture victims are not able to access the necessary rehabilitation support in their countries. There are both formal and informal barriers to torture victims accessing healthcare and rehabilitation. These barriers include restrictions to healthcare in the law or practical barriers, such as lack of knowledge or training for those working with torture victims, lack of translation services in medical facilities, cost reduction mantra of many authorities and firms delivering healthcare and due to capacity and funding constraints of NGOs providing rehabilitation services.

## Detention

The Reception Conditions Directive also establishes the grounds under which an asylum seeker may be detained. It stipulates that detention may only be used when it is **“necessary and on the basis of an individual assessment”**, but also lists a rather extensive number of circumstances whereby states may detain an applicant. This list includes grounds such as determining or verifying an asylum seeker’s identity or nationality<sup>35</sup>. Article 11 of the Reception Conditions Directive contains the rules for detaining vulnerable asylum seekers with special needs. The provision stipulates, **“where vulnerable persons are detained, Member States shall ensure regular monitoring and adequate support”** of that asylum seeker.

Deprivation of liberty has long-term, debilitating effects on the mental and physical health on vulnerable asylum seekers, many of whom have suffered from traumatic experiences in their countries of origin. Research has shown that detention has a detrimental impact on asylum seekers and in the case of torture victims, can aggravate existing mental health conditions, potentially re-traumatising them.<sup>36</sup> Furthermore, the detention of torture victims is fundamentally incompatible with their right to rehabilitation as enshrined in international law and irreconcilable with the requirements under the Reception Conditions Directive to provide vulnerable asylum seekers with adequate support and necessary treatment for torture victims.

# Recommendations

## IDENTIFICATION

### Identification of torture victims

- Member States should clearly define procedures for systematic identification of vulnerable asylum seekers, including torture victims in national asylum legislation and policy.
- Measures for the identification of torture victims should be initiated as soon as an application for asylum has been received. This should be done through the application of specialised screening tools.
- This identification procedure should be harmonised across the EU.<sup>37</sup>
- All staff working with torture victims (immigration officials, staff members at reception centres, social workers, NGO staff and health professionals) should be trained to recognise symptoms and signs of torture trauma.

## RECEPTION CONDITIONS DIRECTIVE

### Rehabilitation

- Torture victims should have a legal entitlement in national law to healthcare services, including psychological treatment.
- Torture victims should have effective access to holistic rehabilitation services meaning (i) officials and hospital staff should know how and where to refer them; (ii) practical obstacles such as distance to rehabilitation services and the cost of transport should be removed; and (iii) torture victims should have access to information about the type and nature of rehabilitation treatment offered and be enabled to make informed decisions about their own rehabilitation.
- Translation and interpretation of medical services should be available, including for consultations and prescription sheets.
- Member States should continuously monitor and evaluate their provision of rehabilitation services to ensure that capacity matches the number of torture victims and their needs.

### Reception conditions

- Member States should ensure that torture victims have access to special reception conditions that take their specific needs into consideration. Torture victims should be provided with suitable housing facilities.
- Reception conditions should aim to facilitate the torture victim's right to rehabilitation and should be conducive to supporting the person in rebuilding a life in the host country.

- Victims of sexual and gender-based violence should be provided with the possibility of being housed in separate facilities.
- Staff members at reception facilities should be appropriately trained in responding to the special needs of torture victims.

### **Detention**

- The identification of torture victims should take place before any decision related to the deprivation of liberty is taken. This identification procedure should happen regularly throughout the period of detention.
- Regular monitoring of detention facilities and reassessment of needs should be established in law and practice.
- Torture victims should under no circumstance be placed in immigration detention.
- Legal mechanisms should be introduced to allow for torture victims to be released on the basis of the results of identification procedure.
- Detention officials should be trained in the identification of signs or symptoms of torture trauma.

## ASYLUM PROCEDURES DIRECTIVE

### **Special procedural guarantees**

- Medical professionals should be involved in the decisions regarding the interview process, in case there are special health related requirements for the particular asylum seeker.
- The meaning of “adequate support” should entail at least inter alia: timing of the interview; conditions and practical arrangements of interviews; specialised training for interviewers; consideration of the gender of the interviewer and the interpreter; and psychosocial support during the interview.
- When refugee status determination processes are applied to torture victims, the process should be adapted to take into account the person’s possible vulnerable situation including the manifestation of PTSD symptoms, such as involuntary avoidance and disassociation.
- Special procedural guarantees should also be made available during appeal procedures.

### **Medico-legal reports**

- Persons identified as possible torture victims or claiming to be victims should have access to independent health professionals, competent in producing MLRs according to the standards and principles of the Istanbul Protocol free of charge.
- MLRs should be given due and appropriate consideration when determining asylum claims.

- Immigration officials, lawyers and judges should be provided with training on the use of MLRs in asylum proceedings.
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### **Accelerated procedures**

- Torture victims should be systematically excluded from accelerated and border procedures.
  - Sufficient time should be provided to torture victims to present the merits of their case and take into account the time needed for the medical or psychological treatment to have an effect.
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## FUNDING

- Member States should ensure that NGOs providing rehabilitation services are adequately funded.
  - Member States should ensure NGOs providing MLR services are adequately remunerated for these services.
  - The EU should ensure complementary funding of rehabilitation services through permanent financing instruments, such as the Asylum Migration and Integration Fund (AMIF).
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## Notes and References

<sup>1</sup> Figures compiled by the European Union Statistics Agency, Eurostat. Available at: [http://ec.europa.eu/eurostat/statistics-explained/index.php/Asylum\\_statistics](http://ec.europa.eu/eurostat/statistics-explained/index.php/Asylum_statistics)

<sup>2</sup> Heeren M., Mueller J., et al. Mental health of asylum-seekers: a cross-sectional study of psychiatric disorders. *BMC Psychiatry*. 2012; 12:114

<sup>3</sup> In a study carried out in 2005 on the mental health of Cambodian refugees who had resettled in the USA, 54% of the respondents reported torture. See Marshall G N. Schell T L. etc., cited in Carswell K., Blackburn P., Barker C. The relationship between trauma, post-migration problems and the psychological wellbeing of refugees and asylum seekers. *International Journal of Social Psychiatry*. 2011 Mar; 57(2):107-19

<sup>4</sup> In September 2015, the European Commission brought forth infringement procedures against 18 Member States for failing to properly transpose the Asylum Procedures Directive and 19 Member States for failing to transpose the Reception Conditions Directive. The Commission adopted a further two infringement decisions against Malta and Greece in December 2015 for failing to communicate the transposition of the two Directives. The Commission also brought forth an infringement decision against Hungary for the incompatibility of the recent asylum law with the Asylum Procedures Directive. On the 10th of February 2016, the European Commission escalated infringement procedures against Slovenia and Estonia for the Asylum Procedures Directive and against Germany for both the Asylum Procedures Directive and the Reception Conditions Directive.

<sup>5</sup> <http://www.dagenssamhalle.se/debatt/flyktingar-maste-kunna-fa-trau-mavard-i-hela-landet-18732>

<sup>6</sup> Asylum seekers in Austria have access to the labour market 3 months after the submission of their asylum claims, pending a labour market test.

<sup>7</sup> See also, Asylum and Information Database, Navigating the Maze: Structural Barriers to Accessing Protection in Austria. (pgs 19-20) December 2015.

<sup>8</sup> Parcours d'Exil is launching a project which aims to unify MLR standards around the Istanbul Protocol and to have authorities promote it.

<sup>9</sup> The Berlin Network for Particularly Vulnerable Refugees. Available at: <http://www.migrationsdienste.org/projekte/abgeschlossene-projekte/bns2.html>

<sup>10</sup> Ibid.

<sup>11</sup> Ibid.

<sup>12</sup> Cordelia Foundation, Hungarian Helsinki Committee, Foundation for Access to Rights, & Assistance Centre for Torture Survivors., 2016. From Torture to Detention: Access of Torture Survivors and Traumatized Asylum-Seekers to Rights and Care in Detention.

<sup>13</sup> ECRE, Asylum Information Database, Country Report: Hungary, 4th Update, November 2015. Available at: [http://www.asylumineurope.org/sites/default/files/report-download/aida\\_hu\\_update.iv\\_.pdf](http://www.asylumineurope.org/sites/default/files/report-download/aida_hu_update.iv_.pdf)

<sup>14</sup> ECRE, Asylum Information Database, Country Report: Hungary, 4th Update, November 2015. Available at: [http://www.asylumineurope.org/sites/default/files/report-download/aida\\_hu\\_update.iv\\_.pdf](http://www.asylumineurope.org/sites/default/files/report-download/aida_hu_update.iv_.pdf)

<sup>15</sup> CIR/Vi.To, Maieutics "Elaborating a common interdisciplinary working methodology (legal-psychological) to guarantee the recognition of the proper international status to torture victims and violence", December 2012, available at: <http://bit.ly/1Gb1PCq>, 55-57.

<sup>16</sup> Ibid.

<sup>17</sup> Amnesty International Report 2012. The State of the World's Human Rights. Available at: <https://www.amnestyusa.org/sites/default/files/air12-report-english.pdf>

<sup>18</sup> Article 7 of the International Covenant on Civil and Political Rights, entered into force 23 March 1976. Available at <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT), entered into force 26 June 1988. Available at <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CAT.aspx>; and Article 5 of the Universal Declaration of Human Rights

<sup>19</sup> Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), entered into force 23 September 1953. Available at [http://www.echr.coe.int/Documents/Convention\\_ENG.pdf](http://www.echr.coe.int/Documents/Convention_ENG.pdf); Article 4 of the Charter of Fundamental Rights of the European Union, entered into force 18 December 2000. Available at [http://www.europarl.europa.eu/charter/pdf/text\\_en.pdf](http://www.europarl.europa.eu/charter/pdf/text_en.pdf)

<sup>20</sup> Article 33 of the UN Refugee Convention: Prohibition of expulsion or return ("Refoulement"); Article 3 of the UNCAT: "No State Party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture."

<sup>21</sup> See *Soering v. United Kingdom*, *Cruz Varas and Others v. Sweden*, *Vilvarajah and Others v. United Kingdom*, *Chahal v. United Kingdom*

<sup>22</sup> UN Committee against Torture. General Comment No. 3: Implementation of Article 14 by State parties. 13 December 2012. Paragraphs 11 and 22. Available at: [http://www2.ohchr.org/english/bodies/cat/docs/GC/CAT-C-GC-3\\_en.pdf](http://www2.ohchr.org/english/bodies/cat/docs/GC/CAT-C-GC-3_en.pdf)

<sup>23</sup> Directive 2013/32/EU on common procedures for granting and withdrawing international protection (recast), entered into force 21 July 2015. Available at <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013L0032&from=en>

<sup>24</sup> Directive 2013/33/EU on laying down standards for the reception of applicants for international protection (recast), entered into force 21 July 2015. Available at <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013L0033&from=EN>

<sup>25</sup> Directive 2011/95/EU on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast), entered into force 21 December 2013. Available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:337:0009:0026:en:PDF>

<sup>26</sup> Regulation (EU) No 603/2013 on the establishment of 'EURODAC' for the comparison of fingerprints for the effective application of Regulation (EU) No 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person and on requests for the comparison with EURODAC data by Member States' law enforcement authorities and Europol for law enforcement purposes, and amending Regulation (EU) No 1077/2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (recast), entered into force 26 June 2013. Available at <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013R0603&from=EN>

<sup>27</sup> Regulation (EU) No 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast), entered into force 26 June 2013. Available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:180:0031:0059:EN:PDF>

<sup>28</sup> Article 24 of the Asylum Procedures Directive and Article 22 of the Reception Conditions Directive

<sup>29</sup> Article 22(4) of the Reception Conditions Directive

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<sup>30</sup> PROTECT-ABLE project <http://protect-able.eu/>

<sup>31</sup> Towers, R., Recognising Torture victims in National Asylum Procedures. 2014. Available at: <http://www.irct.org/media-and-resources/library/other-irct-key-publications.aspx>

<sup>32</sup> India has not ratified the Convention against Torture nor criminalised the use of torture and ill-treatment in national legislation.

<sup>33</sup> Amnesty International, Morocco: Endemic torture used to incriminate suspects, gag dissent, May 2015. Available at: <https://www.amnesty.org/en/latest/news/2015/05/morocco-endemic-torture/>

<sup>34</sup> Amnesty International, Tunisia: Evidence of torture and deaths in custody suggest gains of the uprising sliding into reverse gear, January 2016. Available at: <https://www.amnesty.org/en/latest/news/2016/01/tunisia-evidence-of-torture-and-deaths-in-custody/>

<sup>35</sup> Article 8 of the Reception Conditions Directive

<sup>36</sup> Jesuit Refugee Service, Becoming Vulnerable in Detention (the DEVAS Project). June 2010. Available at: <http://www.europarl.europa.eu/document/activities/cont/201110/20111014ATT29338/20111014ATT29338EN.pdf>

<sup>37</sup> The EASO Tool for identification of persons with special needs available here <https://ipsn.easo.europa.eu/easo-tool-identification-persons-special-needs> and the “EASO Training Module - Interviewing Vulnerable Persons” available here <https://www.easo.europa.eu/sites/default/files/public/EASO-Practical-Guide-Personal-Interview-EN.pdf>

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